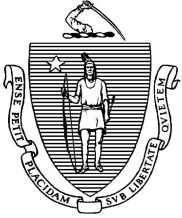


Senate, No. 2495

[Senate, June 18, 2010 – Text of the Senate amendment (Ways and Means) to the House Bill establishing expanded gaming in the Commonwealth (House, No. 4619)



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND TEN

1 **SECTION 1.** Section 7 of chapter 4 of the General Laws, as appearing in the 2008
2 Official Edition, is hereby amended by striking out clause Tenth and inserting in place thereof the
3 following clause:-

4 Tenth, “Illegal gaming,” any banking or percentage game played with cards, dice, tiles,
5 dominoes, or any electronic, electrical or mechanical device or machine for money, property,
6 checks, credit or any representative of value, but excluding: (i) a lottery game conducted by the
7 state lottery commission, under sections 24, 24A and 27 of chapter 10; (ii) a game conducted
8 under chapter 23K; (iii) pari-mutuel wagering on horse races, whether live or simulcast, under
9 chapter 128A and chapter 128C; (iv) the game of bingo conducted under chapter 271; and (v)
10 charitable gaming, so called, conducted under chapter 271.

11 **SECTION 2.** Section 48 of chapter 6 of the General Laws is hereby repealed.

12 **SECTION 3.** Sections 64 and 65 of chapter 10 of the General Laws are hereby repealed.

13 **SECTION 4.** Chapter 12 of the General Laws is hereby amended by inserting after
14 section 11L the following section:-

15 Section 11M. (a) As used in this section the following words shall, unless the context
16 clearly requires otherwise, have the following meanings:-

17 “Board”, the Massachusetts gaming control board established in chapter 23K.

18 “Commission”, the Massachusetts gaming commission established in chapter 23K.

19 “Division”, the division of gaming enforcement established in subsection (b).

20 “Gaming establishment”, as defined in section 2 of chapter 23K.

21 (b) There shall be in the department of the attorney general a division of gaming
22 enforcement. The attorney general shall designate an assistant attorney general as director of the
23 division. The director may appoint and remove, subject to the approval of the attorney general,
24 such expert, clerical or other assistants as the work of the division may require.

25 (c) The division’s powers and duties shall include the following: (1) investigate and
26 prosecute allegations of criminal activity related to or impacting the operation of gaming
27 establishments or games; (2) receive and take appropriate action on referrals for criminal
28 prosecution from the commission, board or any other law enforcement body; (3) provide
29 assistance, upon request, to the commission and board in the consideration and promulgation of
30 rules and regulations; (4) ensure that there is no duplication of duties and responsibilities between
31 it, the commission and the board; and (5) recommend persons to be placed on the list of excluded
32 persons maintained by the board.

33 No employee of the division, or any person engaged by the division in the course of an
34 investigation, other than those in the performance of their official duties, shall place a wager in
35 any gaming establishment licensed under chapter 23K during the period of the employee’s
36 employment or assignment with the division.

37 Officers and employees of the gaming enforcement unit of the state police assigned to the
38 division shall record their time and submit total hours to the board. The board shall reimburse the
39 state police.

40 The attorney general shall be reimbursed by the board for the costs of operating the
41 division and legal representation of the commission or board.

42 **SECTION 5.** Chapter 12B of the General Laws is hereby repealed.

43 **SECTION 6.** Subsection (b) of section 9 of chapter 13 of the General Laws, is hereby
44 amended by striking out the words “, as well as the state racing commission established by
45 section 48 of chapter 6,” inserted by section 29 of chapter 4 of the acts of 2009.

46 **SECTION 7.** Subsection (e) of section 9B of said chapter 13 is hereby amended by
47 striking out the words “, as well as the state racing commission established by section 48 of
48 chapter 6,” inserted by section 30 of said chapter 4.

49 **SECTION 8.** Said subsection (e) of said section 9B of said chapter 13 is hereby amended
50 by striking out the words “or regulated by the state racing commission, as established by section
51 48 of chapter 6” inserted by section 31 of said chapter 4.

52 **SECTION 9.** Section 35 of Chapter 10 of the General Laws, as appearing in the 2008
53 Official Edition, is amended by striking out, in lines 2 and 16, the words “State Lottery Fund” and
54 inserting in place thereof the following words:- State Lottery and Gaming Fund.

55 **SECTION 10.** Section 39 of said chapter 10, as so appearing, is hereby amended by
56 striking out, in lines 12 to 13 and in line 19, the words “State Lottery Fund” and inserting in place
57 thereof the following words:- State Lottery and Gaming Fund.

58 **SECTION 11.** Section 38 of chapter 22C of the General Laws, as so appearing, is hereby
59 amended by inserting after the word “involving”, in lines 36 and 37, the following word:- illegal.

60 **SECTION 12.** Said chapter 22C is hereby amended by adding the following section:-

61 Section 70. The colonel of state police shall establish a gaming enforcement unit whose
62 responsibilities shall include, but not be limited to, the investigation of criminal violations of
63 chapter 23K, chapter 271 or any other general or special law that pertains to gaming.

64 The gaming enforcement unit shall work in conjunction and cooperation with the bureau
65 of investigations and enforcement under the Massachusetts gaming control board established in
66 said chapter 23K and the division of gaming enforcement in the office of the attorney general
67 established under section 11M of chapter 12 to investigate criminal activity related to gaming in
68 the commonwealth. The colonel shall assign officers and employees of the unit to the bureau of

investigations and enforcement, who shall report to the director of the bureau as well as the colonel of the department of state police; the colonel shall also assign officers of the unit to the division of gaming enforcement, who shall report to the chief of the division as well as the colonel of the department of state police. No officer of the unit, other than in the performance of official duties, shall place a wager in any gaming establishment licensed under chapter 23K. The colonel shall establish a program to rotate officers in and out of this unit. The state police shall be reimbursed by the board for the costs of operating the unit.

SECTION 12A: Chapter 23A of the General Laws is hereby amended by striking out sections 13A and 13B, as so appearing, and inserting in place thereof the following 2 sections:-

Section 13A. For the purposes of sections 13A to 13Q, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Foreign offices”, foreign offices for international trade within the international trade office.

“Partnership”, the Massachusetts marketing partnership created in this section.

“Tourism”, the office of travel and tourism.

In order to promote common, coordinated and concerted efforts on behalf of the commonwealth, there shall be within the executive office of housing and economic development, but not subject to the supervision or control of the executive office, the Massachusetts marketing partnership which shall coordinate marketing efforts on behalf of the commonwealth and shall oversee the activities of the agencies placed within it.

(a) The partnership shall consist of 11 partners who shall be: the secretary of housing and economic development, who shall chair the partnership; the director of the Massachusetts office of business development or the director’s designee; the executive director of the Massachusetts

92 Convention Center Authority or the executive director's designee; the executive director of the
93 Massachusetts Port Authority or the executive director's designee; the executive director of the
94 Massachusetts Alliance for Economic Development, or its successor organization; and 6
95 individuals appointed by the governor for terms of 5 years, as follows: 2 persons employed by a
96 business that has a principal place of business in the commonwealth and that exports goods to
97 other countries, 1 of whom shall be selected from a list of 3 names submitted by the Associated
98 Industries of Massachusetts; 1 person who has significant experience with a public relations or
99 advertising firm doing business in the commonwealth; 1 person who shall be on the faculty of a
100 public or private business school in the commonwealth who is experienced in international
101 business; and 2 persons who shall represent a regional tourism council in the commonwealth
102 outside of Suffolk County, Middlesex County and Norfolk County. Of the initial partners
103 appointed by the governor, 3 shall serve a term of 2 years and 3 shall serve a term of 5 years.

104 At least 3 of the governor's 6 appointments shall reside outside of Suffolk County,
105 Middlesex County and Norfolk County. Not more than 6 of the partners shall be members of the
106 same political party. Each partner shall serve without compensation but may be reimbursed for
107 actual and necessary expenses reasonably incurred in the performance of the partner's duties,
108 including reimbursement for reasonable travel; provided, however that that such reimbursement
109 shall not exceed \$500 annually. A person appointed to fill a vacancy in the office of a partner
110 shall be appointed in a like manner and shall serve for only the unexpired term of the former
111 partner. A partner shall be eligible for reappointment and may be removed by the governor for
112 cause. The partnership shall annually elect 1 partner to serve as vice-chairperson.

113 (b) Eight partners shall constitute a quorum and the affirmative vote of a majority of
114 partners present at a duly called meeting, if a quorum is present, shall be necessary for an action
115 to be taken by the partnership. An action required or permitted to be taken at a meeting of the
116 partnership may be taken without a meeting if all of the partners consent, in writing, to the action

117 and that written consent is filed with the records of the minutes of the meetings of the partnership.
118 Such consent shall be treated for all purposes as a vote at a meeting. Each partner shall make full
119 disclosure, under subsection (c), of the partner's financial interest, if any, in matters before the
120 partnership by notifying the state ethics commission, in writing, and the partner shall abstain from
121 voting on a matter before the board in which the partner has a financial interest, unless otherwise
122 permitted under chapter 268A.

123 (c) Chapters 268A and 268B shall apply to all ex officio partners or the partners'
124 designees and employees of the agencies within the partnership. Chapters 268A and 268B shall
125 apply to all other partners, except that the agencies within the partnership may purchase from, sell
126 to, borrow from, loan to, contract with or otherwise deal with a person, corporation or other
127 business entity in which any partner is in any way interested or involved; provided, however, that
128 such interest or involvement is disclosed in advance to the partners of the partnership and
129 recorded in its minutes; and provided, further, that no partner having such an interest or
130 involvement may participate in a decision of the partnership relating to such person, corporation
131 or other business entity. Employment by the commonwealth or service in an agency or political
132 subdivision of the commonwealth shall not be deemed to be such an interest or involvement.

133 (d) The partnership shall bi-annually elect 1 of its partners as treasurer and 1 of its
134 partners as secretary. The secretary of the partnership shall keep a record of its proceedings and
135 shall be custodian of all books, documents and papers filed by the partnership and of its minute
136 book and seal. The secretary of the partnership shall cause copies to be made of all minutes and
137 other records and documents of the partnership and shall certify that such copies are true copies
138 and all persons dealing with the partnership may rely upon such certification.

139 (e) Partners and employees of the agencies within the partnership having access to its
140 cash or negotiable securities shall give bond to the partnership at its expense in such amounts and

with such surety as the partnership may prescribe. The persons required to give bond may be included in 1 or more blanket or scheduled bonds.

(f) Partners and officers who are not compensated employees of the partnership shall not be liable to the commonwealth, the executive office of housing and economic development or any other person as a result of their activities, whether ministerial or discretionary, as such partners or officers except for willful dishonesty or intentional violations of law. Neither members of the partnership nor a person executing bonds or policies of insurance shall be personally liable on those bonds or policies or be subject to any personal liability or accountability by reason of the issuance of those bonds or policies. The partnership may purchase liability insurance for partners, officers and employees and may indemnify the partners against claims of others.

(g) Upon the termination of the existence of the partnership, all right, title and interest in and to all of its assets and all of its obligations, duties, covenants, agreements and obligations shall vest in and be possessed, performed and assumed by the commonwealth.

(h) An action of the partnership may take effect immediately and need not be published or posted unless otherwise provided by law. Meetings of the partnership shall be subject to section 11A 1/2 of chapter 30A, except that said section 11A 1/2 shall not apply to any meeting of partners in the partnership serving ex officio in the exercise of their duties as officers of the commonwealth so long as no matter relating to the official business of the partnership is discussed and decided at the meeting. The partnership shall be subject to all other sections of said chapter 30A, and records pertaining to the administration of the partnership shall be subject to section 42 of chapter 30 and section 10 of chapter 66. All moneys of the partnership shall be considered to be public funds for purposes of chapter 12A.

(i) .The partnership shall be subject to section 16G of chapter 6A and section 56 of chapter 23A.

Section 13B. There shall be within the partnership the following offices: the office of travel and tourism, the Massachusetts international trade office and the commonwealth marketing office.

SECTION 13: The General Laws are hereby amended by inserting after chapter 23J the following chapter:-

Chapter 23K. The Massachusetts Gaming Commission and Massachusetts Gaming Control Board

Section 1. As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Affiliate”, a person who, directly or indirectly, controls or is controlled by, or is under common control with, a specified person.

“Applicant”, any person who has applied for a license or registration to engage in activity regulated under this chapter.

“Application”, a written request for a finding of suitability to receive a license or engage in an activity which is regulated under this chapter.

“Board”, the Massachusetts gaming control board created in section 3.

“Bureau”, the investigations and enforcement bureau within the board.

“Business”, a corporation, sole proprietorship, partnership, limited liability company or any other organization formed for the purpose of carrying on commercial enterprise.

“Capital expenditure”, money spent by a licensee to upgrade or maintain depreciable and tangible long-term physical assets that are capitalized on the licensee’ books under generally

accepted accounting principles and excluding expenditures or charges for the usual and customary maintenance and repair of any fixed asset.

“Cashless wagering system”, a method of wagering and accounting in which the validity and value of a wagering instrument or wagering credits are determined, monitored and retained by an electronic system operated and maintained by a licensee which maintains a record of each transaction involving the wagering instrument or wagering credits, exclusive of the game or gaming device on which wagers are being made, including electronic systems which facilitate electronic transfers of money directly to or from a game or gaming device.

“Cheat”, alter the selection of criteria which determines the results of a game or the amount or frequency of payment in a game.

“Cheating and swindling device” or “cheating and swindling game”, shall include:

(i) a coin, token or slug other than a lawful coin or legal tender of the United States or a coin not of the same denomination as the coin intended to be used while playing or using any slot machine in a gaming establishment, except that in the playing of a slot machine or similar gaming device, it shall be lawful for a person to use tokens or similar objects which are approved by the commission;

(ii) a bogus or counterfeit chip, coin or die; marked card; a computerized, electronic, electrical, mechanical or magnetic device; tool, drill, wire, key or other device designed, constructed or programmed specifically for:

(A) use in obtaining an advantage in any game;

(B) opening, entering or affecting the operation of any gaming device;

207 (C) removing from slot machine, other gaming device or drop box any money or
208 other contents from such machine, device or box;

209 (iii) tools, drills, wires, coins or tokens attached to strings or wires, or electronic or
210 magnetic devices to facilitate the alignment of a winning combination;

211 (iv) a gaming device that has been manufactured, serviced, marked, plugged or tampered
212 with, or placed in a condition or operated in a manner, to:

213 (A) deceive, or attempt to deceive, the public; or

214 (B) alter, or attempt to alter, the normal random selection of characteristics, the
215 normal chance of the game or the result of the game at a gaming establishment.

216 “Close associate”, a person who holds any relevant financial interest in, or is entitled to
217 exercise any power in, the business of an applicant or licensee and, by virtue of that interest or
218 power is able to exercise a significant influence over the management or operation of a gaming
219 establishment or business licensed under this chapter.

220 “Commission”, the Massachusetts gaming commission created in section 2.

221 “Commissioner”, a member of the commission.

222 “Complimentary service or item”, a service or item provided at no cost or at a reduced
223 price.

224 “Conservator”, a person appointed by the commission under section 22 to temporarily
225 manage the operation of a gaming establishment.

226 “Credit card”, a card, code or other device with which a person may defer payment of
227 debt, incur debt and defer the payment of the debt, or purchase property or services and defer
228 payment for the property or services, but not a card, code or other device used to activate a

229 preexisting agreement between a person and a financial institution to extend credit when the
230 person's account at the financial institution is overdrawn or to maintain a specified minimum
231 balance in the person's account at the financial institution.

232 "Credit instrument", a writing which evidences a gaming debt owed to a person who
233 holds a gaming license at the time the debt is created, and includes any writing taken in
234 consolidation, redemption or payment of a previous credit instrument.

235 "Division", the division of gaming enforcement under the office of the attorney general.

236 "Foreign business", any business that was organized outside of the United States or under
237 the laws of a foreign country.

238 "Gambling", the playing of a game by a patron of a gaming establishment.

239 "Game", a banking or percentage game played with cards, dice, tiles, dominoes or an
240 electronic, electrical or mechanical device or machine played for money, property, checks, credit
241 or any representative of value which has been approved by the commission under this chapter.

242 "Gaming", the dealing, operating, carrying on, conducting, maintaining or exposing for
243 pay of a game.

244 "Gaming area", the premises of a gaming establishment in which or on which gaming is
245 done.

246 "Gaming control employee" commissioners, board members and board officers, agents,
247 employees, consultants and advisors.

248 "Gaming device" or "Gaming equipment", an electronic, electrical, or mechanical
249 contrivance or machine used in connection with gaming or a game.

250 “Gaming employee”, an employee of a gaming establishment who is: (i) directly
251 connected to the operation or maintenance of a gaming device, slot machine or game taking place
252 in a gaming establishment; (ii) provides security in a gaming establishment; (iii) has access to a
253 restricted area of the gaming establishment;(iv) is connected with the operation of a gaming
254 establishment; or (v) is so designated by the commission.

255 “Gaming establishment”, the premises approved under a gaming license which includes a
256 gaming area and other nongaming structures related to the gaming area, including, but not limited
257 to, hotels, restaurants or other amenities.

258 “Gaming license”, a license issued by the commission that permits the licensee to operate
259 a gaming establishment with table games and slot machines.

260 “Gaming licensee”, a licensee who holds a gaming license.

261 “Gaming position”, a designated seat or standing position where a patron of a gaming
262 establishment can play a game.

263 “Gaming service employee”, an employee of a gaming establishment who is not
264 classified as a gaming employee or a key gaming employee, but is required to register with the
265 board.

266 “Gaming vendor”, a person who holds a gaming vendor license and offers goods or
267 services to a gaming licensee on a regular or continuing basis which directly relates to gaming,
268 including, but not limited to, gaming equipment, suppliers and repairers.

269 “Gaming vendor license”, a license issued by the commission that permits the licensee to
270 act as a vendor to a gaming establishment.

271 “Gross gaming revenue”, the total of all sums actually received by a gaming licensee
272 from gaming operations less the total of all sums paid out as winnings to patrons; provided,
273 however, that the total of all sums paid out as winnings to patrons shall not include the cash
274 equivalent value of any merchandise or thing of value included in a jackpot or payout; provided,
275 further, that “gross gaming revenue” shall not include any amount received by a gaming licensee
276 from credit extended or collected by the licensee for purposes other than gaming.

277 “Holding company”, a corporation, association, firm, partnership, trust or other form of
278 business organization other than a natural person which, directly or indirectly, owns, has the
279 power or right to control or has the power to vote any significant part of the outstanding voting
280 securities of a corporation or other form of business organization which holds or applies for a
281 gaming license; provided, however, that “holding company”, in addition to other reasonable
282 meaning of the words used, a holding company shall indirectly have, hold or own any such
283 power, right or security if it does so through an interest in a subsidiary or successive subsidiaries,
284 regardless of the number of subsidiaries that may intervene between the holding company and the
285 gaming licensee or applicant.

286 “Host community”, a municipality in which a gaming establishment is located or in
287 which an applicant has proposed locating a gaming establishment.

288 “Institutional investor”, any of the following entities having a 5 per cent or greater
289 ownership interest in a gaming establishment or gaming licensee, or its holding or management
290 company: a corporation, bank, insurance company, pension fund or pension fund trust, retirement
291 fund, including funds administered by a public agency, employees’ profit-sharing fund or
292 employees’ profit-sharing trust, an association engaged, as a substantial part of its business or
293 operation, in purchasing or holding securities or a trust in respect of which a bank is a trustee or
294 co-trustee, investment company registered under the federal Investment Company Act of 1940,

collective investment trust organized by banks under part 9 of the Rules of the Comptroller of Currency, closed end investment trust, chartered or licensed life insurance company or property and casualty insurance company, investment advisor registered pursuant to the federal Investment Advisors Act of 1940, banking and other chartered or licensed lending institution, and such other persons as the commission may reasonably determine to qualify as an institutional investor for reasons consistent with this chapter.

“Intermediary company”, a corporation, association, firm, partnership, trust or any other form of business organization other than a natural person which is a holding company with respect to a corporation or other form of business organization which holds or applies for a gaming license, and is a subsidiary with respect to a holding company.

“Junket”, an arrangement intended to induce any person to come to a gaming establishment to gamble, where the person is selected or approved for participation on the basis of the person’s ability to satisfy a financial qualification obligation related to the person’s ability or willingness to gamble or on any other basis related to the person’s propensity to gamble, and pursuant to which, and as consideration for which, any or all of the cost of transportation, food, lodging, and entertainment for the person is directly or indirectly paid by a gaming licensee or affiliate of the gaming licensee.

“Junket enterprise”, a person, other than an applicant for a gaming license or gaming licensee, who employs or otherwise engages the services of a junket representative in connection with a junket to a licensed gaming establishment, regardless of whether or not those activities occur within the commonwealth.

“Junket representative”, an individual who negotiates the terms of, or engages in the referral, procurement or selection of persons who may participate in, any junket to a gaming establishment, regardless of whether or not those activities occur within the commonwealth.

319 “Key gaming employee”, an employee of a gaming establishment: (i) in a supervisory
320 capacity; (ii) empowered to make discretionary decisions which regulate gaming establishment
321 operations; or (iii) so designated by the commission.

322 “License”, any license required under this chapter.

323 “List of excluded persons”, the list of excluded persons maintained by the commission
324 under section 35.

325 “Lottery”, the state lottery established under section 24 of chapter 10.

326 “Non-gaming vendor”, a supplier or vendor, including, but not limited to, construction
327 companies, vending machine providers, linen suppliers, garbage handlers, maintenance
328 companies, limousine services, food purveyors or suppliers of alcoholic beverages, which provide
329 goods or services not directly related to games to a gaming establishment or gaming licensee.

330 “Qualification” or “qualified”, the process of licensure set forth by the commission to
331 determine that all gaming licensees, gaming vendors, or the business of a gaming licensee or
332 gaming vendor, meet the same standards of suitability to operate or conduct business with a
333 gaming establishment in the commonwealth.

334 “Person”, an individual, corporation, association, operation, firm, partnership, trust or
335 other form of business association.

336 “Promotional gaming credit”, a slot machine or table game credit or other item issued by
337 a gaming licensee to a patron to enable the placement of a wager at a slot machine or table game.

338 “Slot machine”, a mechanical, electrical or other device, contrivance or machine which,
339 upon insertion of a coin, token or similar object in the device, contrivance or machine, or upon
340 payment of any consideration, is available to play or operate, the play or operation of which,

whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the individual playing or operating the machine to receive cash or tokens to be exchanged for cash, or to receive merchandise or anything of value whatsoever, whether the payoff is made automatically from the machine or in any other manner whatsoever.

“State police”, the state police established in chapter 22C.

“Subsidiary”, a corporation, any significant part of whose outstanding equity securities are owned, subject to a power or right of control, or held with power to vote, by a holding company or an intermediary company; or a significant interest in a firm, association, partnership, trust or other form of business organization, other than a natural person, which is owned, subject to a power or right of control, or held with power to vote, by a holding company or an intermediary company.

“Surrounding communities” municipalities in proximity to a host community which the board determines experience or are likely to experience impacts from the development or operation of a gaming establishment, including municipalities from which the transportation infrastructure provides ready access to an existing or proposed gaming establishment.

“Table game”, a game, other than a slot machine, which is authorized by the commission to be played in a gaming establishment.

“Transfer”, the sale and every other method, direct or indirect, of disposing of or parting with property or with an interest in property, or with the possession of property, or of fixing a lien upon property or upon an interest in property, absolutely or conditionally, voluntarily or involuntarily, by or without judicial proceedings, as a conveyance, sale, payment, pledge, mortgage, lien, encumbrance, gift, security or otherwise; provided, that, the retention of a security interest in property delivered to a corporation shall be deemed a transfer conducted by such corporation.

365 “Wager”, a sum of money or representative of value that is risked on an occurrence for
366 which the outcome is uncertain.

367 **Section 2.** (a) There shall be a Massachusetts gaming commission to be composed of 5
368 commissioners.

369 (b) The governor shall appoint 3 of the commissioners, 1 of whom the governor shall
370 designate as chair. The attorney general and state treasurer shall each appoint 1 commissioner.
371 The appointment of each commissioner shall require the approval of at least 2 of the 3 appointing
372 authorities.

373 (1) Commissioners shall serve for a term of 5 years.

374 (2) No commissioner may serve more than 2 full terms.

375 (3) Not more than 3 commissioners shall be of the same political party.

376 (4) Not more than 2 commissioners shall be of the same professional background
377 or field.

378 (5) Each commissioner shall be a United States citizen and a resident of the
379 commonwealth.

380 (c) The commission shall meet as frequently as necessary but at least once each month.

381 (d) The gaming control board shall provide the commission with administrative and
382 clerical services and other assistance necessary for the commission to perform its functions.

383 (e) The chair of the commission may receive an annual salary of \$60,000.
384 Commissioners may receive a stipend of \$50,000.

385 (f) Three commissioners shall constitute a quorum and 3 affirmative votes shall be
386 required for an action or recommendation of the commission. The chairman or 3 members of the

commission may call a meeting; provided, that notice of all meetings shall be given to each commissioner and to other persons who request such notice. The commission shall adopt regulations clarifying who is entitled to notice under this subsection.

(g) The governor may remove a commissioner if the commissioner: (i) is guilty of malfeasance in office; (ii) substantially neglects the duties of a commissioner; (iii) is unable to discharge the powers and duties of the commissioner's office; (iv) commits gross misconduct; or (v) is convicted of a felony.

(h) No commissioner shall hold, or be a candidate for, elective office in the commonwealth or be an officer or official of a political party.

(i) No commissioner shall be actively engaged or have a pecuniary interest in an applicant for a license under this chapter or any gaming licensee.

(j) The governor shall conduct a background investigation on a candidate for appointment to the commission regarding the financial stability, integrity and responsibility of the candidate as well as the candidate's reputation for good character, honesty and integrity prior to appointing the candidate as a commissioner.

(k) No commissioner, other than in the performance of the commissioner's official duties, shall place a wager in a gaming establishment.

(l) The commission shall be a commission for the purposes of section 3 of chapter 12.

(m) The commission shall be a state authority under the definition in section 1 of chapter 29.

Section 3. (a) There shall be a Massachusetts gaming control board, which shall be comprised of 3 members who shall be appointed by the governor; 1 of whom shall be a certified

public accountant or have experience in corporate finance; and 1 of whom shall have experience in law enforcement, investigation or law.

(b) The governor shall appoint 1 member to serve as the chair, coordinate the activities of the board and shall have at least 5 years managerial experience in public or business administration. Each member shall:

(1) be a United States citizen;

(2) be a resident of the commonwealth or shall become a resident within 90 days of appointment; and

(3) serve for a term of 4 years.

(c) Members shall devote their full time and attention to the duties of the board and may receive an annual salary equal to the salary of the secretary of administration and finance; provided, however, that the chair shall receive a stipend, in addition to the base salary, in an amount equal to 7 per cent of the base salary. No member shall be compensated for any other position.

(d) The governor may remove a board member if the member: (i) is guilty of malfeasance in office; (ii) substantially neglects the duties of a board member; (iii) is unable to discharge the powers and duties of the board member's office; (iv) commits gross misconduct; or (v) is convicted of a felony.

(e) No board members shall hold, or be a candidate for, elective office in the commonwealth, or be an officer or official of a political party.

(f) No board members shall be actively engaged or have a pecuniary interest in an applicant for a license under this chapter or a gaming establishment licensed under this chapter.

431 (g) The governor shall conduct a background investigation on a candidate for
432 appointment to the board regarding the financial stability, integrity and responsibility of the
433 candidate as well as the candidate's reputation for good character, honesty and integrity prior to
434 appointing the candidate as a board member.

435 (h) The chair of the board shall serve as the board's executive director. The chair shall
436 be:

437 (i) the executive and administrative head of the board; and

438 (ii) responsible for administering and enforcing the laws, regulations and civil
439 and administrative penalties established under this chapter.

440 (i) The chair shall appoint and employ a chief financial and accounting officer and may
441 employ other employees, consultants, agents and advisors, including legal counsel and shall
442 attend the meetings of the commission. The chief financial and accounting officer of the board
443 shall be in charge of its funds, books of account and accounting records. No funds shall be
444 transferred by the board without the approval and the signatures of the chief financial and
445 accounting officer and the treasurer.

446 (j) In the case of the absence or vacancy of the chair, or in the case of disability as
447 determined by the board or commission, the governor may designate an acting chair until the
448 vacancy is filled or the absence or disability ceases. The acting chair shall have all the powers and
449 duties of the chair and shall have similar qualifications as the chair.

450 (k) The chair may establish within the board such administrative units as may be
451 necessary for the efficient and economical administration of the board and when necessary for
452 such purpose, may abolish any such administrative unit or may merge any 2 or more units. The
453 chair shall prepare and keep current a plan of the organization of the board, of the assignment of

its functions to its various administrative units, offices and employees and of the places at which and the methods by which the public may receive information or make requests. A current copy of the plan of organization shall be kept on file with the state secretary and in the office of the secretary of administration and finance.

(l) The chair may appoint such persons as the chair considers necessary to perform the functions of the board; provided that chapter 31 and section 9A of chapter 30 shall not apply to any board employee. If an employee serving in a position which is classified under said chapter 31 or in which an employee has tenure by reason of said section 9A of chapter 30 shall be appointed to a position within the board which is not subject to said chapter 31, the employee shall, upon termination of the employee's service in such position, be restored to the position which the employee held immediately prior to such appointment; provided, however, that the employee's service in such position shall be determined by the civil service commission under the standards applied by the civil service commission in administering said chapter 31. Such restoration shall be made without impairment of the employee's civil service status or tenure under said section 9A of chapter 30 and without loss of seniority, retirement or other rights to which uninterrupted service in such prior position would have entitled the employee. During the period of such appointment, each person so appointed from a position in the classified civil service shall be eligible to take any competitive promotional examination for which the person would otherwise have been eligible.

(m) The board may require a prospective employee to: (i) submit an application and a personal disclosure on a form prescribed by the board which shall include a complete criminal history, including convictions and current charges for all felonies and misdemeanors; (ii) undergo testing which detects the presence of illegal substances in the body; and (iii) provide fingerprints and a photograph consistent with standards adopted by the state police. The board shall verify the identification, employment and education of each prospective employee, including: (i) legal

name, including any alias; (ii) all secondary and post secondary educational institutions that the prospective employee attended regardless of graduation status; (iii) place of residence; and (iv) employment history.

(n) (1) The board shall not hire a prospective employee if the prospective employee has: (A) been convicted of a felony or a misdemeanor that, in the discretion of the board, bears a close relationship to the duties and responsibilities of the position for which employment is sought; (B) been dismissed from prior employment for gross misconduct or incompetence; or (C) intentionally made a false statement concerning a material fact in connection with the prospective employee's application to the board.

(2) If an employee of the board is charged with a felony or misdemeanor while employed by the board, the board may suspend the employee, with or without pay, and if the employee is convicted the board may terminate the employee's employment with the board. If an employee of the board is charged with a felony or misdemeanor related to gaming while employed by the board, the board shall suspend the employee, with or without pay, and if the employee is convicted the board shall terminate the employee's employment with the board.

(o) Immediately upon assuming office, each board member and employee of the board, except for secretarial and clerical personnel, shall swear or affirm, under the penalty of perjury, that the board member or employee possesses no financial interest in any gaming licensee or gaming vendor.

(p) A board employee who, as part of the employee's duties, is required to be present in a gaming establishment shall be considered an essential state employee.

(q) No board member, or employee of the board, other than in the performance of such member's or employee's official duties, shall place a wager in a gaming establishment.

(r) No employee of the board shall pursue any other business or occupation or other gainful employment outside of the board without the prior written approval of the commission that such employment shall not interfere or be in conflict with the employee's duties to the board.

(s) The board shall be a state authority under the definition in section 1 of chapter 29.

Section 4. (a) All gaming control employees shall:

(i) be sworn to the faithful performance of their official duties

(ii) conduct themselves in a manner so as to render decisions that are fair and impartial and in the public interest;

(iii) avoid impropriety and the appearance of impropriety in all matters under their jurisdiction;

(iv) avoid all prohibited communications;

(v) require staff and personnel subject to their direction and control to observe the same standards of fidelity and diligence;

(vi) disqualify themselves from proceedings in which their impartiality might reasonably be questioned;

(vii) refrain from financial or business dealings which would tend to reflect adversely on impartiality;

(viii) not own, or be in the employ of, or own any stock in, any business which holds a license under this chapter; nor shall a gaming control employee have in any way directly or indirectly a pecuniary interest in, or be connected with, any such business or in the employ or connected with any person financing any such business; provided, that immediate family

members of gaming control employees shall not own, or be in the employ of, or own stock in, any business which holds a license under this chapter.

(b) No gaming control employee shall personally, or through any partner or agent, other than in the normal course of the employee's duties, render any professional service or make or perform any business contract with or for any gaming licensee or gaming vendor, except contracts made with the board for furnishing of services, nor shall the employee directly or indirectly receive any commission, bonus, discount, gift or reward from any gaming licensee.

(c) Neither the board nor any of its officers, agents, employees, consultants or advisors shall be subject to sections 9A, 45, 46 and 52 of chapter 30, or to chapter 31 or to chapter 200 of the acts of 1976.

(d) No individual shall be employed by the board if, during the period commencing 3 years prior to employment, that individual held any direct or indirect interest in, or was employed by, a gaming licensee or gaming vendor.

(e) No commissioner or board member shall hold a direct or indirect interest in, or be employed by, an applicant or by a gaming licensee or gaming vendor for at least 3 years following the termination of the commissioner or board member's service as such a commissioner or board member.

(f) No employee of the board holding a major policy making position shall acquire interest in, or accept employment with, an applicant or licensee under this chapter for a period of 2 years after the termination of employment with the board.

(g) No employee of the board in a non-major policy making position shall acquire interest in, or accept employment with, any applicant or licensee under this chapter for a period of 1 year after termination of employment with the commission.

546 (h) Gaming control employees shall be considered state employees under chapters 268A
547 and 268B.

548 **Section 5.** The commission shall adopt regulations for the implementation, administration
549 and enforcement of this chapter. The adoption of such regulations shall only be made after the
550 board submits proposed regulations to the commission for the commission's review and
551 approval. The board, subject to chapter 30A, shall prepare its recommendations and submit such
552 recommendations to the commission. The regulations shall include, but not be limited to,
553 regulations that:

554 (1) prescribe the method and form of application which an applicant for a license or
555 registration shall follow and complete before consideration of an application by the commission
556 and board;

557 (2) prescribe the information to be furnished by an applicant or licensee concerning the
558 licensee's or applicant's antecedents, habits, character, associates, criminal record, business
559 activities and financial affairs, past or present;

560 (3) prescribe the criteria for evaluation of the application for a gaming license including
561 with regard to the proposed gaming establishment an evaluation of architectural design and
562 concept excellence, integration of the establishment into its surroundings, tourism appeal, level of
563 capital investment committed, financial strength of the applicant and the robustness of the
564 applicant's financial plan;

565 (4) prescribe the information to be furnished by a gaming licensee relating to the
566 licensee's gaming employees;

567 (5) require fingerprinting or other methods of identification of an applicant for a license
568 or registration under this chapter;

569 (6) prescribe the manner and method of collection and payment of fees and issuance of
570 licenses;

571 (7) prescribe grounds and procedures for the revocation or suspension of a license or
572 registration;

573 (8) require quarterly financial reports and an annual audit prepared by a certified public
574 accountant attesting to the financial condition of a gaming licensee and disclosing whether the
575 accounts, records and control procedures examined are maintained by the gaming licensee as
576 required by this chapter and the regulations promulgated under this chapter;

577 (9) prescribe the minimum procedures for effective control over the internal fiscal affairs
578 of a gaming licensee, including the safeguarding of assets and revenues, the recording of cash and
579 evidence of indebtedness and the maintenance of reliable records, accounts and reports of
580 transactions, operations and events, including reports by the commission and board;

581 (10) provide for a minimum uniform standard of accounting engineering and procedures
582 and a process for the approval of accounting and engineering firms;

583 (11) establish licensure and registration procedures for employees working at the gaming
584 establishment and minimum training requirements; provided, further, that the commission and
585 board may establish certification procedures for any training schools in the commonwealth as
586 well as the minimum requirements for reciprocal licensing for out-of-state gaming employees;

587 (12) require that all gaming employees be properly trained in their respective positions;

588 (13) require the posting of payback statistics of slot machines played in a gaming
589 establishment, except that the cash equivalent value of any merchandise or other thing of value
590 shall not be included in determining the payout percentage of a slot machine;

591 (14) provide for the interim authorization of a gaming establishment under of section 17;

592 (15) concern the conduct of junkets and conditions of junket agreements between gaming
593 licensees and junket representatives;

594 (16) develop standards for granting a waiver under section 45; and

595 (17) require gaming establishments to develop security measures, including checking the
596 parking areas of the gaming establishment for unattended minors and animals every 2 hours.

597 The commission may, under section 2 of chapter 30A, promulgate, amend, or repeal any
598 regulation promulgated under this chapter as an emergency regulation if such regulation is
599 necessary to protect the interests of the commonwealth in regulating a gaming establishment.

600 **Section 6.** The commission shall have all powers necessary or convenient to carry out
601 and effectuate its purposes, including, but not limited to, the following:

602 (1) to adopt an official seal;

603 (2) to execute all instruments necessary or convenient to accomplish the purposes of
604 this chapter;

605 (3) to enter into agreements or other transactions with any person, including, but not
606 limited to, any public entity or other governmental instrumentality or authority in connection with
607 its powers and duties under this chapter;

608 (4) to appear on its own behalf before boards, commissions, departments or other
609 agencies of municipal, state or federal government;

610 (5) to apply for and accept subventions, grants, loans, advances and contributions
611 from any source of money, property, labor or other things of value, to be held, used and applied
612 for its purposes;

613 (6) to assure that licenses and registrations shall not be issued to nor held by, nor shall
614 there be any material involvement, directly or indirectly, with a gaming establishment or a
615 gaming licensee, by unqualified, disqualified, or unsuitable persons or persons whose operations
616 are conducted in a manner not conforming with this chapter;

617 (7) to require an applicant for a position, which requires a license under this chapter, to
618 apply for a license and approve or disapprove any such application or other transactions, events
619 and processes as provided in this chapter;

620 (8) to require a person who has any kind of business association with a gaming licensee
621 or applicant to be qualified for licensure or registration under this chapter;

622 (9) to develop criteria, in addition to those outlined in this chapter, to assess which
623 application for a gaming licenses will provide the highest and best value to the commonwealth
624 and the region in which a gaming establishment is to be located;

625 (10) to determine which applicants shall be awarded a gaming license, a gaming vendor
626 license and other licenses under this chapter;

627 (11) to deny any application or limit, condition, restrict, revoke or suspend a license,
628 registration, finding of suitability or approval or fine a person licensed, registered, found suitable
629 or approved for any cause the commission deems reasonable;

630 (12) to issue subpoenas and compel the attendance of witnesses at any place within the
631 commonwealth, administer oaths and require testimony under oath before the commission in the
632 course of a hearing conducted under this chapter;

633 (13) to conduct adjudicatory proceedings under chapter 30A;

634 (14) to hear appeals of the board's suspension or revocation of a license;

635 (15) to monitor any federal activity regarding internet gaming; and

636 (16) to adopt, amend, or repeal regulations for the administration and enforcement of this
637 chapter.

638 **Section 7.** The board shall have all powers necessary or convenient to carry out and
639 effectuate its purposes, including, but not limited to, the following:

640 (1) to appoint officers and hire employees;

641 (2) to adopt an official seal;

642 (3) to establish, and amend as necessary, such a plan of organization as it may deem
643 expedient under subsection (k) of section 3;

644 (4) to execute all instruments necessary or convenient to accomplish the purposes of
645 this chapter;

646 (5) to enter into agreements or other transactions with any person, including, but not
647 limited to, a public entity or other governmental instrumentality or authority in connection with
648 the board's powers and duties under this chapter;

649 (6) to appear on its own behalf before boards, commissions, departments or other
650 agencies of municipal, state or federal government;

651 (7) to apply for and accept subventions, grants, loans, advances and contributions
652 from any source of money, property, labor or other things of value, to be held, used and applied
653 for its purposes;

654 (8) to provide and pay for advisory services and technical assistance as may be
655 necessary in its judgment to carry out the purpose of this chapter and fix the compensation of
656 persons providing such services or assistance;

(9) to prepare, publish and distribute, with or without charge, as the commission or board may determine, such studies, reports and bulletins and other material as the commission and board considers appropriate;

(10) to monitor the conduct of all licensees and other persons having a material involvement, directly or indirectly with a licensee for the purpose of ensuring that licenses are not issued to or held by, and there is no direct or indirect material involvement with a licensee by unqualified, or unsuitable persons or persons whose operations are conducted in an unsuitable manner or in unsuitable or prohibited places as provided in this chapter;

(11) to recommend:

(i) the denial or approval of an application, license or registration or qualification for licensure;

(ii) conditions, limitations or restrictions of any license, registration, qualification for licensure or approval;

(iii) the suspension or revocation of a license, registration, qualification for licensure or approval or the imposition of a fine upon a person licensed, registered or qualified for licensure or approved for any cause considered reasonable by the board;

(12) to conduct investigations into the qualifications of all applicants for employment by the board and all applicants for registration or licensure under this chapter;

(13) to ensure that there is no duplication of duties and responsibilities between the board, commission and division, provided, however, that the commission may not place any restriction upon the board or the division's ability to investigate or prosecute violations of this chapter or the regulations adopted under this chapter;

(14) to request and receive from the state police, the criminal history systems board, or other criminal justice agencies, including, but not limited to, the United States Federal Bureau of Investigation and the federal Internal Revenue Service, such criminal offender record information relating to criminal and background investigations as necessary for the purpose of

evaluating employees of, and applicants for, employment by the board and any gaming licensee or gaming vendor, and evaluating licensees and applicants for licensure;

(15) to be present through its inspectors and agents at all times in gaming establishments to: (i) certify the revenue of the establishment; (ii) receive complaints from the public relating to the conduct of gaming and wagering operations; (iii) examine records of revenues and procedures, inspect and audit all books, documents and records of any gaming licensee or gaming vendor; (iv) conduct periodic reviews of operations and facilities; and (v) otherwise exercise its oversight responsibilities with respect to gaming;

(16) to inspect and have access to all equipment and supplies in a licensed gaming establishment or in any gaming area or other premises where gaming equipment is manufactured, sold or distributed;

(17) to seize and remove from the gaming area or other premises of a gaming licensee and impound any equipment, supplies, documents or records for the purpose of examination and inspection;

(18) to demand access to and inspect, examine, photocopy and audit all papers, books and records of any affiliate of a gaming licensee or gaming vendor whom the commission or board suspects is involved in the financing, operation or management of the gaming licensee or gaming vendor; provided, however, that the inspection, examination, photocopying and audit may take place on the affiliate's premises or elsewhere as practicable, and in the presence of the affiliate or the affiliate's agent;

(19) to require that the books and financial or other records or statements of a gaming licensee or gaming vendor be kept in a manner that the board considers proper;

(20) to assist the commission in conducting adjudicatory proceedings and developing regulations in accordance with chapter 30A;

(21) to refer cases for criminal prosecution to the appropriate federal, state or local authorities;

(22) to issue subpoenas and compel the attendance of witnesses at any place within the commonwealth, administer oaths and require testimony under oath before the commission and board in the course of any investigation or hearing conducted under this chapter;

(23) to maintain an official internet website for the commission and board;

(24) to establish parameters for elections under clause 7 of subsection (a) of section 12;

(25) to determine which municipalities are the surrounding communities of a proposed gaming establishment, provided that in making such determination the board shall consider factors including, but not limited to population, infrastructure, distance from the gaming establishment and political boundaries;

(26) to provide technical assistance to cities and towns that are conducting referendum votes or negotiating community mitigation impact agreements for the purposes of this chapter and to facilitate the negotiation of fair and reasonable agreements between an applicant and host or surrounding communities;

(27) to levy and collect assessments, fees and fines and impose penalties and sanctions for violations of this chapter and regulations under section 5;

(28) to levy and collect assessments for the operation of the board, bureau, commission, state police unit and division; and

(29) to levy and collect taxes established in section 63 of this chapter.

Section 8. The board shall administer and enforce chapter 128A and 128C and any other general or special law related to pari-mutuel wagering. The board shall serve as a host racing commission and an off-track betting commission for purposes of 15 U.S.C.A.3001, et seq.

Section 9. (a) The board may require anyone with an interest in the business of an applicant for a gaming license or a close associate of an applicant for a gaming license, to be

733 qualified for licensure by meeting the criteria set forth in sections 11 and 14 and to provide any
734 other information that the board requires.

735 (1) For every business which applies for a gaming license, the board shall
736 determine whether: each officer and director of a corporation, other than a publicly traded
737 corporation; general partner and limited partner of a limited partnership; and member or
738 transferee of a member's interest in a limited-liability company; and director and manager of a
739 limited-liability company which applies for a gaming license meets the standards for qualification
740 of licensure under sections 11 and 14. The board may also require that any of an applicant's
741 business' individual stockholders, lenders, holders of evidence of indebtedness, underwriters,
742 close associates, key gaming employees, key executives, agents or employees shall also be
743 required to meet the standards for qualification of licensure.

744 (2) Any person owning more than 5 per cent of the common stock of the
745 applicant company directly or indirectly or a holding, intermediary or subsidiary of an applicant
746 company may be required to meet the qualifications for licensure under sections 11 and 14. The
747 board may waive these requirements for institutional investors holding up to 15 per cent of the
748 stock of the applicant company or holding, intermediary or subsidiary company of the applicant
749 company upon a showing by the person seeking the waiver that the applicant purchased the
750 securities for investment purposes only and does not have an intention to influence or affect the
751 affairs or operations of the applicant company or a holding, intermediary or subsidiary of the
752 applicant company. An institutional investor granted a waiver which subsequently determines to
753 influence or affect the affairs or operations of the applicant company or a holding, intermediary or
754 subsidiary of the applicant company shall provide not less than 30 days notice to the board of
755 such intent and the board shall ensure that the institutional investor meets the qualifications for
756 licensure under sections 11 and 14 before the institutional investor may take an action that may

757 influence or affect the affairs of the applicant company or a holding, intermediary or subsidiary of
758 the applicant company.

759 (3) The board may require a person who is required to be qualified for licensure
760 by this section to meet the standards for qualification of licensure under sections 11 and 14 and
761 any other standards the board determines before providing a recommendation to the commission
762 on a gaming license application under section 14.

763 (b) The board shall require any person involved in the financing of an applicant's
764 proposed gaming establishment to be qualified for licensure under sections 11 and 14 and may
765 grant a waiver under clause (2) of subsection (a).

766 (c) If a corporation or other form of business organization applying for a gaming license
767 is to become a subsidiary, each holding company, intermediary company and other entity having
768 an interest in the applicant shall be required to be qualified for licensure under sections 11 and 14.

769 (d) The board may require that a company or individual that may exercise control or
770 provide direction to an applicant company or a holding, intermediary or subsidiary of an applicant
771 company be qualified for licensure under section 11 and 14 and may allow such person to seek a
772 waiver under clause (2) of subsection (a).

773 **Section 10.** (a) After a gaming license is awarded to an applicant, the board may require
774 that anyone with an interest in the gaming establishment be licensed by the commission or
775 registered by the board.

776 (1) When a business is awarded a gaming license, all close associates, key
777 gaming employees, institutional investors, junket representatives, junket enterprises, each officer
778 and director if it is a corporation other than a publicly traded corporation, each general partner
779 and limited partner if it is a limited partnership, and if it is a limited-liability company each

780 member, transferee of a member's interest in the limited-liability company, director and manager
781 of the limited-liability company, shall be licensed by the commission prior to the business
782 beginning operations at the gaming establishment.

783 (2) Any person owning more than 5 per cent of the common stock of the gaming
784 licensee or a holding, intermediary or subsidiary of a gaming licensee shall be licensed. The
785 board may waive the licensing requirements for institutional investors holding up to 15 per cent
786 of the stock of the gaming licensee or holding, intermediary or a subsidiary company of the
787 gaming licensee upon a showing by the person seeking the waiver that the applicant purchased
788 the securities for investment purposes only and does not have an intention to influence or affect
789 the affairs or operations of the gaming licensee or a holding, intermediary or a subsidiary of the
790 gaming licensee. An institutional investor granted a waiver which subsequently determines to
791 influence or affect the affairs or operations of the gaming licensee or a holding, intermediary or a
792 subsidiary of the gaming licensee shall provide not less than 30 days notice to the board of such
793 intent and shall file an application and be subject to the licensing requirements of this chapter
794 before taking an action that may influence or affect the affairs of the gaming licensee or a
795 holding, intermediary or a subsidiary of the gaming licensee.

796 (3) All other gaming employees, gaming service employees, or any other person
797 or business with an interest in the gaming establishment as determined by the board, shall be
798 required to register with the board and provide such information as the board may require.

799 (b) Any person required to be licensed shall file an application with the board and shall
800 provide any additional information as the board requires. The application shall be on a form
801 prescribed by the board and shall include, but shall not be limited to, the following:

802 (1) the name of the applicant;

(2) the mailing address and if a corporation, the name of the state under the laws of which the corporation is incorporated, the location of the corporation's principal place of business and the names and addresses of the corporation's directors and stockholders;

(3) any criminal or arrest record;

(4) any civil judgments obtained against the applicant pertaining to antitrust or security regulation;

(5) if the applicant is a business, the identity of every person or entity having a direct or indirect interest in the business and the nature of such interest; provided, that, if the entity is a trust, the application shall disclose the names and addresses of all beneficiaries; provided, further, that if the entity is a partnership, the names and addresses of all partners, both general and limited; and provided, further, that if the disclosed entity is a limited liability company, the names and addresses of all members;

(6) an independent audit report of all financial activities and interests including, but not limited to, the disclosure of all contributions, donations, loans or any other financial transactions to or from any gaming licensee or operator of any gaming establishment in any jurisdiction within the past 5 years; and

(7) clear and convincing evidence of financial stability including, but not limited to, bank accounts, records, references, business and personal income and disbursement schedules, tax returns and other reports filed with government agencies and business and personal accounting check records and ledgers. The board may require such other information and documentation as it deems appropriate including, without limitation, information related to the financial integrity of the applicant.

825 (c) The board, by a majority vote of all members, may (i) make a recommendation to the
826 commission that the commission deny the application for a license; (ii) extend the period for
827 issuing a recommendation in order to obtain additional information necessary for a complete
828 evaluation of the application for a license; or (iii) recommend to the commission that the
829 commission grant the applicant a license.

830 (d) The commission may deny an application for a license and the board may deny an
831 application for a registration if the board or commission finds that a license applicant or registrant
832 is disqualified under section 11 or is unsuitable under section 14.

833 (e) A person who is required to be licensed under this section as a general or limited
834 partner shall not serve as such a partner for a licensee until the person obtains the required license
835 or waiver from the commission.

836 (f) The board shall require any person involved in the financing of a gaming
837 establishment to be licensed under this section but may grant a waiver under clause (2) of
838 subsection (a).

839 (g) A person serving in a position that is required to be licensed or registered shall apply
840 to be licensed by the commission or registered by the board not later than 30 days after taking a
841 position with the business. A person who is required to be licensed or registered under a decision
842 of the board shall apply for a license or registration not later than 30 days after the decision.

843 (h) If a corporation or other form of business organization holding a gaming license is to
844 become a subsidiary, the board shall require each holding company, intermediary company and
845 other entity to be licensed.

(i) The commission and board may require the licensing of a company or individual that may exercise control or provide direction to a gaming licensee or a holding, intermediary or subsidiary of a gaming licensee.

(j) The commission or board may condition, suspend or revoke a license or registration under this section if the commission or board finds that a licensee or registrant has:

(1) been arrested or convicted of a crime

(2) failed to comply with this chapter pertaining to licensees or registrants.

Section 11. The commission shall deny an application for a gaming license or a license or registration issued under this chapter, if the applicant:

(i) has been convicted of a felony or other convictions involving embezzlement, theft, fraud or perjury; provided, however, that for convictions which occurred before the 10-year period immediately preceding application for licensure, an applicant may demonstrate and the commission shall consider, the applicant's rehabilitation and whether such conviction should not result in a denial of the application under this section;

(ii) submitted an application for a license under this chapter that contains false or misleading information;

(iii) committed prior acts which have not been prosecuted or convicted but form a pattern of misconduct that make the applicant unsuitable for a license under this chapter; or

(iv) has affiliates or close associates who would not qualify for a license or whose relationship with the applicant could pose an injurious threat to the interests of the commonwealth in awarding a gaming license to the applicant.

867 **Section 12.** (a) No applicant shall be eligible to bid on a gaming license unless the
868 applicant meets the following initial criteria and clearly states as part of an application that the
869 applicant shall:

870 (1) agree to be a state lottery reseller for the purpose of lottery and keno games and
871 demonstrates that state lottery and keno games would be readily accessible to guests of the
872 gaming establishment;

873 (2) prior to beginning operations, invest not less than \$600,000,000 into a gaming
874 establishment proposed to be located in region 1 or 2 and not less than \$400,000,000 into a
875 gaming establishment proposed to be located in region 3, which shall not include the purchase or
876 lease price of the land where the gaming establishment would be located;

877 (3) meet the licensee bonding requirement as set by the board;

878 (4) have a debt to equity ratio of not more than 4 to 1 when the application is submitted;

879 (5) own or acquire within 60 days after a license has been awarded, the land where the
880 gaming establishment is proposed to be constructed;

881 (6) demonstrate an ability to pay and commit to paying the licensing fee of at least
882 \$75,000,000 if the gaming establishment is to be located in region 1 or 2 or \$50,000,000 if the
883 gaming establishment is to be located in region 3 and the operating licensing payment of 25 per
884 cent of all gross gaming revenues;

885 (7) have received a certified and binding vote on a ballot question at an election in the
886 host community, in favor of such license; provided, that, the vote must take place after the
887 effective date of this chapter; provided, further, that a binding vote shall be conducted not less
888 than 60 days after the execution of a signed agreement between the host community and the

applicant as provided in subsection (10); provided, further, that the city, town or district that holds an election shall be reimbursed for its expenses related to the election by the applicant;

(8) provide a community impact fee to the host community;

(9) pay for infrastructure costs of the host and surrounding communities incurred in direct relation to the construction and operation of a gaming establishment;

(10) provide to the commission a signed agreement between the host community and the applicant to have a gaming establishment located within the host community; provided, that the agreement shall include the community impact fee for the host community and all stipulations of responsibilities between the host community and the applicant, including stipulations of known impacts from the development and operation of a gaming establishment;

(11) comply with state and local building codes and local zoning ordinances; and

(12) formulate for board approval and abide by an affirmative-action program of equal opportunity by which the applicant guarantees to provide equal employment opportunities to all employees qualified for licensure in all employment categories, including a person with a disability, under the laws of the commonwealth.

(13) pay to the board a non-refundable application fee in the amount of \$350,000.

Section 13. (a) The board shall prescribe the form of the application for a gaming license which shall require, but not be limited to, the following:

(1) the name of the applicant;

(2) the mailing address and, if a corporation, the name of the state under the laws of which it is incorporated, the location of its principal place of business and the names and addresses of its directors and stockholders;

911 (3) the identity of every person or entity having a direct or indirect interest in the
912 business and the nature of such interest; provided, that, if the entity is a trust, the application shall
913 disclose the names and addresses of all beneficiaries; provided, further, that if a partnership, the
914 names and addresses of all partners, both general and limited; and provided, further, that if a
915 limited liability company, the names and addresses of all members;

916 (4) whether the applicant is a federally recognized Native American tribe located in
917 the commonwealth or is partnering with a federally recognized Native American tribe located in
918 the commonwealth; provided, that if the applicant is a federally recognized Native American tribe
919 located in the commonwealth, such an applicant shall indicate whether the applicant has entered
920 into a contractual agreement with the commonwealth and whether the tribe has entered into an
921 agreement with the commonwealth to waive its rights under the Indian Regulatory Gaming act,
922 25 U.S.C. sections 2701, et seq. and be subject to the civil and criminal laws, statutes, ordinances
923 and jurisdiction of the commonwealth with respect to activities relating to the development and
924 operation of a gaming establishment;

925 (5) information and documentation to demonstrate that the applicant has sufficient
926 business ability and experience to establish the likelihood of creation and maintenance of a
927 successful gaming establishment;

928 (6) if an applicant has ever applied for or has been granted a license to conduct gaming in
929 another jurisdiction, or has had a license issued by any other jurisdiction that has been denied,
930 restricted, suspended, revoked or not renewed the applicant shall include a statement describing
931 the facts and circumstances concerning the application, denial, restriction, suspension, revocation
932 or nonrenewal, including the identity of the licensing authority, the date each action was taken
933 and the reason for each action;

934 (7) an independent audit report of all financial activities and interests including, but
935 not limited to, the disclosure of all contributions, donations, loans or any other financial

936 transactions to or from any gaming establishment or operator of a gaming establishment in the
937 past 5 years;

938 (8) clear and convincing evidence of financial stability including, but not limited to,
939 bank references, business and personal income and disbursement schedules, tax returns and other
940 reports filed by government agencies and business and personal accounting check records and
941 ledgers;

942 (9) evidence of ability and commitment to pay the gaming license fee;

943 (10) a capital investment plan and the total amount of investment proposed by the
944 applicant in the proposed gaming establishment, including all facilities, amenities and
945 infrastructure;

946 (11) evidence of sufficient capital to finance the proposed capital investment plan,
947 including investment in all facilities, amenities, infrastructure improvements as specified in the
948 design plan and continued operation of the proposed gaming establishment; provided, that, a
949 gaming licensee shall engage a third-party engineering and accounting firms to certify expenses
950 of its capital investment plan and provide documentation of such accounting to the board;
951 provided, further, that, the third-party engineering and accounting firms shall be approved by the
952 board and shall certify expenses under rules and regulations adopted by the commission under
953 section 5; provided, further, that, the design plan shall describe timelines and milestones for
954 design and construction of such infrastructure improvements and the applicant shall make
955 quarterly reports on the progress of such infrastructure improvements to the board, the respective
956 host communities and the house and senate committees on ways and means;

957 (12) the location for the proposed gaming establishment, which shall include the
958 address, maps, book and page numbers from the appropriate registry of deeds, assessed value of
959 the land at the time of application and ownership interests over the past 20 years including all
960 interests, options, agreements in property and demographic, geographic and environmental

information and any other information requested by the commission related to the proposed location;

(13) the design plans for the proposed gaming establishment, including, but not limited to:

- (i) detailed design plans detailing all phases of construction;
- (ii) the names and addresses of the architects, engineers and designers;
- (iii) a detailed timeline for construction that includes all phases of construction for the gaming establishment and non-gaming structures;
- (iv) the number of construction hours estimated to complete the work and whether the developer has contracts with labor organizations or a provision assuring labor harmony during all phases of such construction, renovation or reconstruction of the development;

(14) a detailed description of types of games to be conducted at the gaming establishment; number and type of each games and the specific gaming area;

(15) a detailed description of the other amenities at the gaming establishment, including but not limited to:

- (i) the number of hotels and rooms per hotel and other amenities to be located at the proposed gaming establishment;
- (ii) the number of restaurants and other dining establishments to be located at the proposed gaming establishment; and
- (iii) a description of ancillary entertainment services and amenities to be offered at the proposed gaming establishment;

(16) a detailed description of the proposed internal controls and security systems at the proposed gaming establishment;

(17) whether the applicant is using publicly owned land for the proposed gaming establishment;

(18) the number of permanent employees to be employed at the gaming establishment, including detailed information on pay rate and benefits;

(19) a detailed description of the proposed gaming establishment's hiring and training practices, how it will promote the development of a skilled and diverse workforce, how it will provide opportunities for promotion;

(20) whether the applicant would agree to hire any qualified persons permanently employed as of June 1, 2010 at a facility authorized to conduct simulcasting under chapter 128C that is in operation on June 1, 2010 within the region for which the gaming license was granted if said facility terminates operation within 1 year of the commission awarding the gaming license, subject to all other requirements and conditions of employment under this chapter;

(21) whether the applicant has a contract with organized labor and has the support of organized labor for its application;

(22) an agreement and detailed description of how the applicant will mitigate potential negative public health consequences associated with gambling and the operation of a gambling establishment;

(23) completed studies and reports as required by the board, which shall include, but shall not be limited to, an examination of the proposed gaming establishment's: (a) economic benefits to the region and the commonwealth; (b) local and regional social, environmental, traffic and infrastructure impacts; (c) impact on the local and regional economy, including on cultural institutions; (d) cost to the host community and surrounding communities and the commonwealth for the proposed gaming establishment to be located at the proposed location; and (e) the estimated municipal and state tax revenue to be generated by the gaming establishment;

(24) a statement as to whether the applicant's proposed gaming establishment is part of or in accord with a regional or local economic development plan;

(25) a plan to identify, evaluate and mitigate social, economic, cultural and public safety impacts in surrounding communities; provided, that, the plan shall include proposed surrounding

community impact fees and participation by the surrounding communities in identifying impacts and mitigation agreements with the surrounding communities;

(26) the names of proposed vendors of gaming equipment; and

(27) responses to any additional questions that the board may ask.

(b) Applications for licenses shall be public records for the purposes of section 10 of chapter 66; provided, however, that information required by the commission that pertains to: (i) confidential finances, earnings, revenue or trade secrets of an applicant; (ii) an applicant's criminal record or background information; and (iii) personal information submitted by an applicant under this section, shall be confidential, shall not be public records and shall not be disclosed.

(c) Personal information shall include any information concerning: (i) a minor child of an applicant; (ii) the social security number of an applicant or the spouse of an applicant; (iii) the home telephone number or address of an applicant or the spouse or children of an applicant; (iv) the birth certificate of an applicant or information relating to the date or place of birth of an applicant's spouse; (v) the driver's license number of an applicant or an applicant's spouse; (vi) the name or address of a previous spouse of the applicant; (vii) the personal financial information and records of an applicant or the spouse or minor child of an applicant, including tax returns and all records of criminal proceedings; (viii) information concerning a victim of domestic violence, sexual assault or stalking; (ix) the personal electronic mail address of an applicant or spouse or family member of the applicant; and (x) other information considered necessary by the commission to protect the privacy of an applicant or the applicant's family.

Section 14. (a) Upon receipt of an application for a license or registration under this chapter, the board shall investigate the suitability of the applicant. In evaluating the suitability of an applicant, the board shall consider the overall reputation of the applicant including, but not limited to:

1037 (1) the integrity, honesty, character and reputation of the applicant;

1038 (2) the financial stability and background of the applicant;

1039 (3) the business practices and the business ability of the applicant;

1040 (4) whether the applicant has a history of compliance with gaming licensing

1041 requirements in other jurisdictions;

1042 (5) whether the applicant, at the time of application, is a defendant in litigation

1043 involving its business practices;

1044 (6) the suitability of all parties in interest to the gaming license, including affiliates,

1045 close associates and the financial resources of the applicant; and

1046 (7) whether the applicant is disqualified from receiving a license under section 11;

1047 provided, however, that in considering the rehabilitation of an applicant for a gaming license, the

1048 commission shall not automatically disqualify an applicant if the applicant affirmatively

1049 demonstrates, by clear and convincing evidence, that the applicant has financial responsibility,

1050 character, reputation, integrity and general fitness as such to warrant belief by the commission or

1051 board that the applicant will act honestly, fairly, soundly and efficiently as a licensee or registrant.

1052 (b) If the board determines during its suitability investigation under subsection (a) that an

1053 applicant for a gaming license has failed to: (i) establish the applicant's integrity or the integrity

1054 of an affiliate, close associate, financial source or person required to be qualified by the board; (ii)

1055 demonstrate responsible business practices in any jurisdiction; (iii) overcome any other reason, as

1056 determined by the board, as to why it would be injurious to the interests of the commonwealth in

1057 awarding the applicant a gaming license, the board shall cease any further review and recommend

1058 to the commission that the application be denied.

1059 **Section 15.**(a) If the board has determined an applicant for a gaming license is suitable to
1060 receive a gaming license, the board shall commence a review of the applicant's entire application.

1061 (b) The board shall identify which communities shall be designated as the surrounding
1062 communities of a proposed gaming establishment. In making that determination the board shall
1063 consider the plan submitted by the applicant under clause (24) of subsection (a) of section 13,
1064 information received from the public and factors which include, but shall not be limited to,
1065 population, infrastructure, distance from the gaming establishment and political boundaries. Prior
1066 to the public hearing, the applicant shall provide to the board a signed agreement with each of the
1067 surrounding communities; provided that each agreement shall include a surrounding community
1068 impact fee and all stipulations of responsibility between the community and the applicant,
1069 including stipulations of known impacts from the development and operation of the gaming
1070 establishment. When necessary the board may facilitate the negotiation of fair and reasonable
1071 agreements between the applicant and surrounding communities.

1072 (c) After a review of the entire application and any independent evaluations, the board
1073 shall conduct a public hearing on the application under section 11½ of chapter 30A. An applicant
1074 for a gaming license and a municipality designated as a host or surrounding community shall be
1075 given at least 30 days notice of the public hearing.

1076 (d) The public hearing shall provide the board the opportunity to address questions and
1077 concerns relative to the proposal of an applicant for a gaming license including the breadth and
1078 quality of the gaming area and amenities, the integration of the establishment into the surrounding
1079 community and the extent of required mitigation plans. During the hearing, the board may take
1080 the opportunity to read into the record letters of support, opposition or concern from members of
1081 the public.

1082 (e) Not later than 90 days after the conclusion of the public hearing the board shall take
1083 action on the application. The board, by a majority vote of all members, may: (i) make a
1084 recommendation to the commission that the commission deny the application; (ii) extend the
1085 period for issuing a recommendation in order to obtain additional information necessary for a
1086 complete evaluation of the application; or (iii) recommend to the commission that the
1087 commission grant the applicant a gaming license.

1088 (f) Upon making a decision to recommend denial of an application, the board shall
1089 prepare and file the board's decision with the commission and, if requested by the applicant, shall
1090 further prepare and file a statement of the reasons for the recommendation of denial, including
1091 specific findings of fact.

1092 (g) The applicant shall be entitled to a hearing before the commission after the filing of
1093 the board's recommendation. The applicant shall have the right to contest the board's findings.
1094 A representative of the board shall also appear at the hearing and the commission may put such
1095 questions to that representative as it deems appropriate.

1096 (h) Not later than 60 days after the receipt of the recommendation of the board, the
1097 commission shall take action on the application. The commission, by majority vote of all
1098 commissioners, may: (i) deny the application; (ii) extend the period for issuing a decision in order
1099 to obtain any additional information necessary for a complete evaluation of the application; or
1100 (iii) grant the application for a gaming license.

1101 (i) Upon denial of an application, the commission shall prepare and publish its order and,
1102 if requested by the applicant, shall further prepare and file a statement of the reasons for the
1103 denial, including specific findings of fact.

1104 (j) The commission shall have full discretion as to whether to issue a license. Applicants
1105 shall have no legal right or privilege to a gaming license and shall not be entitled to any further
1106 review if denied.

1107 **Section 16.** (a) In determining whether an applicant should receive a gaming license, the
1108 commission shall evaluate:

1109 (1) whether the proposed gaming establishment offers the highest and best value
1110 creating a secure and robust gaming market in the region and the commonwealth;

1111 (2) the revenues received by the commonwealth;

1112 (3) the number and quality of the jobs provided by the proposed gaming
1113 establishment;

1114 (4) the degree to which the proposed gaming establishment meets the criteria
1115 identified in regulations adopted under section 5;

1116 (5) the degree to which potential impacts on host and surrounding communities
1117 which might result from the development or operation of the gaming establishment are mitigated;

1118 (6) the degree to which potential adverse effects which might result from the project
1119 including but not limited to, the cost of meeting the increase in demand for public health care,
1120 child care, public transportation, affordable housing and social services, are mitigated;

1121 (7) the distance between the proposed gaming establishment and any other gaming
1122 establishment;

1123 (8) how well the proposal protects the lottery from adverse impacts due to expanded
1124 gaming, including, but not limited to, developing cross-marketing strategies with the lottery and
1125 increasing ticket sales to out-of-state residents;

1126 (9) how well the proposal promotes local businesses in host and surrounding
1127 communities, including developing cross-marketing strategies with local restaurants, hotels, retail
1128 outlets and performing arts organizations;

(10) how well the proposal implements a workforce development plan to utilize the existing labor force in the commonwealth and region, including the estimated number of construction jobs to be generated by a proposed gaming establishment, the development of workforce training programs and methods for accessing employment at the gaming establishment;

(11) whether the proposal would build a gaming establishment with a variety of amenities and operate in partnership with local hotels, dining, retail and entertainment facilities so that patrons experience the diversified regional tourism industry;

(12) whether the proposal takes additional measures to address problem gambling, including, but not limited to, training gaming employees in prevention programs targeted toward vulnerable populations and to identify patrons exhibiting problems with gambling;

(13) the market analysis detailing the benefits of the site location of the gaming establishment and the estimated recapture rate of gaming-related spending by residents travelling to out-of-state gaming establishments;

(14) whether the proposal utilizes sustainable development principles, including, but not limited to: (i) being certified or capable of being certified as gold or higher under the United States Green Building Council Neighborhood Development Rating System, the green building rating system established by the Leadership in Environmental and Energy Design, gold or higher under the National Green Building Standard, a Three Globe rating or higher under the Green Globes rating system or an alternative rating system approved by the executive office of energy and environmental affairs; (ii) meeting United States Environmental Protection Agency efficiency standards for the electrical equipment and appliances used by the gaming establishment; (iii) procuring 10 per cent of its annual electricity consumption from renewable sources identified by the division of energy resources under section 11F of chapter 25A; and (iv) developing an on-going plan to monitor of energy usage and efficiency;

(15) whether the proposal establishes, funds and maintains human resource hiring and training practices and promotes the development of a skilled and diverse workforce and access to promotion opportunities through a workforce training program that: (i) establishes transparent career paths within the establishment, leading to increased responsibility and pay, with measurable criteria designed to assist employees pursuing career advancement and promotion; (ii) provides employees access to additional resources, such as tuition reimbursement or stipend policies, to enable employees to acquire education or job training needed to advance on those career paths; and (iii) establishes an on-site child day care program; and

(16) whether the applicant would contracts with local business owners to provide services and goods to the gaming establishment.

(b) The commission shall issue a statement of findings of how each applicant proposes to meet the objectives in subsection (a).

Section 17. (a) The commission may issue not more than 3 gaming licenses based on the applications and bids submitted to the commission. Not more than 1 license may be awarded per region, as follows:

region 1: suffolk, middlesex, essex and worcester counties;

region 2: norfolk, bristol, plymouth, nantucket, dukes and barnstable counties;

region 3: hampshire, hamden, franklin and berkshire counties.

Gaming licenses shall only be issued to applicants who are qualified under the criteria set forth in this chapter as determined by the commission. Within any of the regions, if the commission is not convinced that there is an applicant that has both met the eligibility criteria and provided convincing evidence that the applicant will provide value to the region in which the

gaming establishment is proposed to be located and to the commonwealth, no gaming license shall be awarded in that region.

(b) No other gaming license shall be issued by the commission for a period of 10 years.

(c) No gaming licensee shall transfer a license or any direct or indirect interest in the license or a gaming establishment without the majority approval of the commission. Any person seeking to acquire a license through a transfer shall qualify for licensure under this chapter. The commission shall reject any license transfer or transfer of interest in the gaming establishment to an unsuitable person and may reject a proposed transfer that, in the opinion of the commission, would be disadvantageous to the interests of the commonwealth.

(d) (1) Notwithstanding any general or special law or rule or regulation to the contrary, the commission may grant, upon request of an applicant for a gaming license, a gaming beverage license for the sale and distribution of alcoholic beverages to be drunk on the premises of a gaming establishment. The alcoholic beverage control commission shall have the exclusive authority to enforce, regulate and control the distribution of alcoholic beverages in the gaming establishment.

(2) Chapter 138 and the rules and regulations promulgated by the alcoholic beverages control commission shall apply to a gaming establishment and a gaming beverage license unless otherwise provided by this section.

(3) The fee for the gaming beverage license and any renewals of the license shall be determined by the commission. The application fee shall be remitted with the gaming application fee.

(4) A licensee under this section shall be permitted to distribute alcohol free of charge and for on-premise consumption to patrons in the gaming area or as a complimentary

1199 service or item in the gaming establishment; provided, however, that the commission shall
1200 promulgate regulations on such distribution as well as the forms of identification that may be
1201 presented to the licensee to demonstrate proof that a person has attained the age of 21.

1202 (5) The request submitted to the commission for a gaming beverage license by an
1203 applicant for a gaming license shall detail all areas where alcoholic beverages will be served
1204 within the gaming establishment. In issuing a gaming beverage license, the commission shall
1205 describe the scope of the particular license and any restrictions and limitations; provided, that the
1206 license shall not permit the sale or distribution of alcoholic beverages between the hours of 2 a.m.
1207 and 8 a.m.

1208 (6) A gaming licensee shall be responsible for violations of gaming beverage
1209 license in the gaming establishment. The commission may revoke, suspend, refuse to renew or
1210 refuse to transfer a gaming beverage license for violations of chapter 138, regulations
1211 promulgated by the alcoholic beverages control commission and the regulations adopted by the
1212 commission. If, at any time, a licensee elects temporary suspension of their gaming license due to
1213 violations of this section, said licensee shall owe the commonwealth the average tax on gross
1214 gaming revenue based on an appropriate period of time as determined by the commission for the
1215 number of days operation was suspended.

1216 (7) A gaming beverage license shall be nontransferable without prior approval from
1217 the commission. If the license granted under this section is cancelled, revoked or no longer in
1218 use, it shall be returned physically, with all the legal rights, privileges and restrictions pertaining
1219 to the license, to the commission and the commission may then grant the license to a new gaming
1220 licensee under the same conditions as specified in this section.

1221 (8) A license granted under this section shall not decrease the number of such
1222 licenses authorized to be granted to the host community under chapter 138.

1223 (e) A gaming license issued under this chapter shall be valid for a period of 10 years from
1224 the date of first issuance. Ten years after issuance, and every 10 years thereafter, the commission
1225 shall perform a thorough review of the business strategy of the gaming establishment which shall
1226 include plans for expansion and marketing submitted by the licensee. The commission shall
1227 establish procedures for renewal and set the renewal fee based on the cost associated with the
1228 evaluation of a licensee requesting a renewed gaming license.

1229 A gaming licensee shall issue an annual report to the board explicitly stating its progress
1230 on meeting each of the stated goals and stipulations from the licensee's original application. If a
1231 licensee is unable to meet stated goals within a reasonable time frame, as determined by the
1232 board, the board may levy additional fees, so long as the fees are fair and reasonable and the
1233 commission may revoke the license, so long as the licensee has been afforded a proper hearing on
1234 the matter.

1235 Nothing in this section shall preclude the board at any time from reviewing the business
1236 operations of a gaming licensee to ensure that the conditions of licensure are being met,
1237 including, but not limited to, the suitability of the licensee and any affiliates and the fiscal
1238 stability of the gaming establishment.

1239 (f) The commission may condition, suspend or revoke a gaming license upon a finding
1240 that a licensee: (i) has committed a criminal or civil offense under this chapter or any other laws
1241 of the commonwealth; (ii) is not in compliance with gaming regulations or is under criminal
1242 investigation in another jurisdiction; (iii) has breached a condition of the gaming license; (iv) is
1243 conducting business with or employing a person or entity subject to license or registration under
1244 this chapter that is not licensed or registered; (v) is no longer capable of maintaining operations at
1245 a gaming establishment; or (vi) whose business practice, upon a determination by the
1246 commission, is injurious to the policy objectives of this chapter.

1247 (g) Whenever any person contracts to transfer any property relating to an ongoing gaming
1248 establishment, including a security holding in a gaming licensee or holding or intermediary
1249 company, under circumstances which require that the transferee obtain licensure under this
1250 chapter, the contract shall not specify a closing or settlement date which is sooner than 121 days
1251 after the submission of a completed application for licensure or qualification, which application
1252 shall include a fully executed and approved trust agreement.

1253 The commission shall hold a hearing and render a decision on the interim authorization of
1254 the applicant. If the commission grants interim authorization, then the closing or settlement may
1255 occur without interruption of gaming operations. If the commission denies interim authorization,
1256 there shall be no closing or settlement until the commission makes a determination on the
1257 qualification of the applicant. If the commission then denies qualification the contract shall be
1258 terminated for all purposes without liability on the part of the transferor.

1259 (h) No person or affiliate shall be awarded, purchase or otherwise hold or have a financial
1260 interest in more than 1 gaming license issued by the commission.

1261 (i) When granting the gaming licenses, the commission shall take into consideration the
1262 physical distance in of the proposed gaming establishments as they relate to each other and how
1263 to maximize the benefits to the commonwealth. No gaming establishment shall be located within
1264 40 miles of any other gaming establishment in the commonwealth.

1265 (j) The commission shall evaluate all gaming license applications to determine which
1266 application provides the highest and best value to the region and to the commonwealth based on
1267 the criteria set out in this chapter, and any other terms the commission determines by regulation.
1268 If there is more than 1 applicant in a region who is determined by the commission to be eligible
1269 for a gaming license under this section, the commission shall allow each eligible applicant to
1270 resubmit its application. An eligible applicant may, in its resubmitted application, voluntarily

increase the license fee required by subsection (k) and may modify any portion of their application related to the factors listed in section 16. The commission shall consider the entire application and not base its decision solely on the additional license fee payments in determining which applicant shall be awarded a license.

(k) A gaming licensee which has received a license in region 1 or 2 shall pay to the board a fee of not less than \$75,000,000 and a gaming licensee which has received a license in region 3 shall pay to the board a fee of not less than \$50,000,000. These fees shall be paid not later than 30 days after the final award of the license which sets forth the conditions to be satisfied by the licensee before the gaming establishment may be opened to the public.

Section 18. (a) The board shall prescribe the form of the gaming license, which shall include, but shall not be limited to, the following license conditions:

(1) Each gaming licensee shall have an affirmative obligation to abide by every statement made in its application to the board under section 13 and every statement made in its bid submission to the board under section 17.

(2) Each gaming licensee shall comply with all laws of the commonwealth and all rules and regulations promulgated under this chapter.

(3) Each gaming licensee shall abide by all state and local building codes.

(4) Each gaming licensee shall pay daily to the board the gross gaming revenue payment.

(5) Each gaming licensee shall make, or cause to be made, capital expenditures to its gaming establishment in a minimum aggregate amount equal to or greater than 3.5 per cent of the net gaming revenues derived from the establishment.

(6) No person including, but not limited to, substantial party in interest, affiliates and those entities established under the rules and regulations of the state secretary, shall transfer a license, a direct or indirect real interest, structure, real property, premises, facility, personal interest or pecuniary interest under a license issued under this chapter or enter into an option contract, management contract or other agreement or contract providing for such transfer in the present or future, without the notification to, and approval by, the commission. The commission may promulgate rules and regulations, under section 5, that create exemptions from the approval requirement; provided, that:

(i) in no event shall a bona fide commercial financial institution licensed by the division of banks which becomes a substantial party of interest with a licensee be considered a transferee;

(ii) the commission may require the transferor, transferee, or both, to pay to the board an amount representing the commonwealth's share of the increased value for the transferred licenses, property or interest; provided, further, that the commission shall consider as a factor in determining the amount of the payment the market value of said license, property or interest when it was acquired and at the time of the transfer; provided, further, that the commission may place additional conditions or restrictions on said transfer that the commission considers suitable; provided, further, that the commission may reject said transfer if the commission considers the transfer unsuitable; and

(iii) any payments collected by the board on behalf of the commonwealth based on said transfer shall be deposited in the same manner as license fees are deposited.

(7) No gaming licensee shall be permitted to change its business governing structure without the notification and approval of the commission.

(8) No gaming licensee shall operate, invest or own, in whole or in part, another licensee's license or gaming establishment. The commission shall promulgate rules and regulations, under section 5, to address violations of this subsection.

(9) Each gaming licensee shall cooperate with the commission, the board and the attorney general in all gaming-related investigations. Each licensee shall make readily available all documents, materials, equipment, personnel and any other items requested during all investigations. Material that the licensee considers a trade secret or detrimental to the licensee if it were made public may, with the board's approval, be protected from public disclosure and the gaming licensee may require non-disclosure agreements with the board before disclosing such material.

(10) Each gaming licensee shall cooperate with the commission, the board and the attorney general with respect to the investigation of any criminal matter that is discovered on the gaming establishment. The gaming licensee shall, upon receipt of criminal or civil process compelling testimony or production of documents in connection with a civil or criminal investigation, immediately disclose such information to the board. This section shall not prohibit private persons or public entities from seeking any remedy or damages against a gaming licensee.

(11) Each gaming licensee shall allow the board to conduct warrantless searches of the licensee's gaming area.

(12) Each gaming licensee shall have a duty to inform the board of any action which the licensee reasonably believes would constitute a violation of this chapter, and shall assist the board and any federal or state law enforcement agency in the investigation and prosecution of such violation. No person who informs the board of such an action shall be discriminated against by an applicant or licensee as a consequence for having supplied of such information.

1339 (13) Each gaming licensee shall agree to be a state lottery reseller for the purpose of
1340 lottery, multi-jurisdictional lottery and keno games and to demonstrate that state lottery and keno
1341 games are readily accessible to people in the gaming establishment.

1342 (14) Each gaming licensee shall provide an office for the board at the gaming
1343 establishment. The board shall establish the minimum requirements for said office.

1344 (15) Each gaming licensee shall provide an office for the designated state police unit
1345 at the gaming establishment. The board shall establish the minimum requirements for square
1346 footage for the state police office, office furnishings and parking space.

1347 (16) Each gaming licensee shall collect and annually report to the board a detailed
1348 statistical report on the number, job titles and salary of employees hired and retained in
1349 employment at the gaming establishment.

1350 (17) Each gaming licensee shall agree to make a good faith effort to identify and
1351 recruit candidates from the local labor market area and other nearby labor market areas to ensure
1352 a diverse workforce.

1353 (18) Each gaming licensee shall establish, fund and maintain internal human resource
1354 hiring and training practices that promote the development of a skilled and diverse workforce
1355 with access to promotion opportunities by:

1356 (i) establishing transparent career paths with measurable criteria within the
1357 gaming establishment that lead to increased responsibility and higher pay grades that are designed
1358 to allow employees to pursue career advancement and promotion;

1359 (ii) establishing employee access to additional resources, such as tuition
1360 reimbursement or stipend policies, to enable employees to acquire the education or job training
1361 needed to advance career ladders based on increased responsibility and pay grades; and

1362 (iii) establishing an on-site child day care program.

1363 (19) Each gaming licensee shall formulate for board approval and abide by an
1364 affirmative-action program of equal opportunity by which the applicant guarantees to provide
1365 equal employment opportunities to all employees qualified for licensure in all employment
1366 categories, including a person with a disability, under the laws of the commonwealth.

1367 (20) Each gaming licensee shall employ only those persons licensed by the
1368 commission or registered by the board.

1369 (21) Each gaming licensee shall do business only with those vendors licensed by the
1370 commission or registered by the board.

1371 (22) Each gaming licensee shall provide to the board aggregate demographic
1372 information with respect to the licensee's customers in a manner and under a schedule to be
1373 defined by the board.

1374 (23) Each gaming licensee shall meet the requirements under clauses 7 through 11 of
1375 subsection (a) of section 12 and clause (23) of subsection (a) of section 13 to the satisfaction of
1376 the board.

1377 (24) Each gaming licensee shall provide complimentary on-site space for an
1378 independent substance abuse, compulsive gambling and mental health counseling service and
1379 establish a program to train the gaming employees in the identification of and intervention with
1380 customers exhibiting problem gaming behavior.

1381 (25) Each gaming licensee shall keep conspicuously posted in the gaming area a
1382 notice containing the name and a telephone number for problem gambling assistance. The board
1383 may require the licensee to provide this information in more than 1 language.

(26) Each gaming licensee shall provide a process for individuals to exclude such individuals' names and contact information from the gaming licensee's database or any other list held by the gaming licensee for use in marketing or promotional communications.

(27) Each gaming licensee shall meet the requirements under clause (22) of subsection (a) of section 13 to the satisfaction of the board.

(28) Each gaming licensee shall institute additional public health strategies as required by the board.

(b) The board may include any reasonable additional requirements to the license conditions.

Section 19. (a) No person or business shall conduct any business with a gaming licensee regarding the licensee's gaming establishment unless such person has been licensed by the commission or registered by the board.

(1) No person or business shall manufacture, sell, distribute or repair gaming equipment or slot machines, other than antique slot machines as defined in section 5A of chapter 271, without a valid gaming vendor license issued by the commission.

(2) Non-gaming vendors shall be required to register with the board and shall produce such information as the board may require; provided, however, that the board may require any vendor otherwise considered a non-gaming vendor, which regularly conducts over \$250,000 of business with a gaming licensee within a 12 month period, or \$100,000 of business within a 3 year period, to be licensed as a gaming vendor.

(b) Any person seeking a gaming vendor license shall file an application with the board. Such application shall be on a form prescribed by the board and shall include, but shall not be limited to, the following:

1407 (1) the name of the applicant;

1408 (2) the mailing address and if a corporation, the name of the state under the laws
1409 of which the corporation is incorporated, the location of the corporation's principal place of
1410 business and the names and addresses of the corporation's directors and stockholders;

1411 (3) any criminal or arrest record;

1412 (4) any civil judgments obtained against the person pertaining to antitrust or
1413 security regulation;

1414 (5) the identity of every person or entity having a direct or indirect interest in the
1415 business and the nature of such interest; provided, that, if the entity is a trust, the application shall
1416 disclose the names and addresses of all beneficiaries; provided, further, that if the entity is a
1417 partnership, the names and addresses of all partners, both general and limited; and provided,
1418 further, that if the disclosed entity is a limited liability company, the names and addresses of all
1419 members;

1420 (6) an independent audit report of all financial activities and interests including,
1421 but not limited to, the disclosure of all contributions, donations, loans or any other financial
1422 transactions to or from any gaming licensee or operator of a gaming establishment in the past 5
1423 years; and

1424 (7) clear and convincing evidence of financial stability including, but not limited
1425 to, bank accounts, records, references, business and personal income and disbursement schedules,
1426 tax returns and other reports filed by government agencies and business and personal accounting
1427 check records and ledgers.

1428 The board may require such other information as it deems appropriate including, without
1429 limitation, information related to the financial integrity of the applicant and may require the
1430 applicant to submit other documentation the board considers appropriate.

1431 (c) Any person owning more than 5 per cent of the common stock of a company required
1432 to be licensed as a gaming vendor, or a holding, intermediary or subsidiary of such company,
1433 shall be required to file for licensure. The commission may waive the licensing requirements for
1434 institutional investors holding up to 15 per cent of the stock of the company, or holding,
1435 intermediary or subsidiary company of the company, upon a showing by the person seeking the
1436 waiver that the applicant purchased the securities for investment purposes only and does not have
1437 any intention to influence or affect the affairs or operations of the company or a holding,
1438 intermediary or subsidiary of the such company. Any institutional investor granted a waiver
1439 which subsequently determines to influence or affect the affairs or operations of the gaming
1440 vendor, or a holding, intermediary or subsidiary of the gaming vendor, shall provide not less than
1441 30 days notice to the board of such intent and shall file an application and be subject to the
1442 licensing requirements of this chapter before taking an action that may influence or affect the
1443 affairs of the applicant company or a holding, intermediary or subsidiary of the applicant
1444 company.

1445 (d) The board, by a majority vote of all members, may (i) make a recommendation to the
1446 commission that it deny a gaming vendor license application; (ii) extend the period for issuing a
1447 recommendation in order to obtain additional information necessary for a complete evaluation of
1448 the gaming vendor license application; or (iii) recommend to the commission that it grant the
1449 applicant a gaming vendor license.

1450 (e) The board may deny an application for registration of a non-gaming vendor or
1451 supplier if the board finds that an applicant or registrant is disqualified under section 11 or may
1452 be unsuitable for registration under section 14.

1453 (f) The commission or board, in the case of a non-gaming vendor, may condition,
1454 suspend or revoke any license or registration under this section if the commission or board finds
1455 that a licensee or registrant has:

1456 (i) been arrested or convicted of a crime;

1457 (ii) failed to comply with section 10 or

1458 (iii) failed to comply with this chapter pertaining to licensees.

1459 (g) The board shall establish a master vendor list to monitor all gaming and non-gaming
1460 vendor contracts with a gaming establishment. A vendor doing business with a gaming
1461 establishment which has failed to submit an application for licensure or registration shall be
1462 prohibited from engaging in any future business with a gaming establishment; provided, that the
1463 board may terminate any contracts that have been entered into with an unlicensed or unregistered
1464 vendor.

1465 (h) Each gaming licensee shall have a continuing duty to inform the board of all gaming
1466 and non-gaming vendor contracts.

1467 (i) A license or registration issued under this section shall be issued for a term of 3 years.
1468 It shall be the responsibility of the vendor to ensure that the vendor's license or registration is
1469 current.

1470 (j) The board shall establish fees for gaming vendor licenses which shall include costs
1471 incurred for conducting a background investigation into an applicant for said license. The board

shall establish fees for non-gaming vendor registration which shall include costs incurred for conducting a background investigation into an applicant for said registration.

(k) The board shall monitor the conduct of all gaming vendors and other persons having a material involvement, directly or indirectly, with a gaming vendor to ensure that gaming vendor licenses are not issued to, or held by, and there is no direct or indirect material involvement with, a gaming vendor by unqualified, disqualified or unsuitable persons.

Section 20. (a) Each labor organization, union or affiliate seeking to represent employees who are employed at a gaming establishment shall register with the board.

(b) Neither a labor organization, nor its officers who are not otherwise licensed or registered under this chapter, may hold any financial interest in a gaming establishment whose employees are represented by the organization.

Section 21. (a) A gaming licensee shall be permitted to issue credit to a patron of a gaming establishment under regulations promulgated under section 5. Such regulations shall include, but not be limited to: (i) procedures for confirming that a patron has an established credit history and is in good standing; (ii) whether the patron has a good credit history with the gaming establishment; (iii) authorization of a credit instrument; (iv) methods for acknowledging a credit instrument and payment of debt; and (v) information to be provided by the patron to the gaming establishment to be shared with the board for auditing purposes.

(b) Except as otherwise authorized by the board through regulations under section 5, no establishment, nor any person acting on behalf of an establishment shall: (1) cash any check, make any loan or otherwise provide or allow to a person any credit or advance of anything of value, or which represents value, to enable a person to place a wager; or (2) release or discharge a debt, either in whole or in part, or make a loan which represents any losses incurred by a player in gaming activity, without maintaining a written record of the release or discharge under the rules

of the commission. Nothing in this section shall prohibit an establishment from accepting credit cards for non-gaming related purchases or services.

(c) Checks cashed in conformity with the requirements of this chapter shall be valid instruments enforceable under the laws of the commonwealth. Any check cashed, transferred, conveyed or given in violation of this chapter or regulations promulgated under section 5 shall be invalid and unenforceable.

(d) The commission shall establish by regulation, under section 5, procedures and standards for approving promotional gaming credits; provided, that, no such credit shall be reported as a promotional gaming credit by an operator of a gaming establishment unless the operator can establish that the credit was issued by the gaming establishment and received from a patron as a wager at a game in the gaming establishment; provided, further, that such promotional gaming credit shall not be taxable for the purposes of determining gross revenue.

(e) No other person or entity, other than a gaming licensee licensed under this chapter, shall issue credit to a person while the person is a patron of a gaming establishment.

(f) Debt collections under this section and debt collection regulations promulgated under section 5 shall be limited to key gaming employees or attorneys acting directly on behalf of gaming licensees; provided further that a key gaming employee shall be prohibited from making any such collections if the key gaming employee serves as a junket representative for the gaming establishment.

Section 22. (a) No junkets may be organized or permitted and no person may act as a junket representative or junket enterprise except as authorized by the board under this chapter.

(b) A junket representative employed by a gaming licensee or affiliate shall be licensed as a gaming employee; provided, however, that a junket representative need not be a resident of the

commonwealth. A person who holds a valid gaming employee license may act as a junket representative while employed by a gaming licensee or an affiliate. No gaming licensee shall employ or otherwise engage a junket representative who is not licensed under this chapter.

(c) The board shall deny an application for a license under this section if the board finds that an applicant is disqualified under section 11 or may be unsuitable for licensure under section 14.

(d) Each gaming licensee, junket representative or junket enterprise shall file a report with the board with respect to each list of junket patrons or potential junket patrons purchased directly or indirectly by the gaming licensee, junket representative or enterprise.

(e) No junket enterprise or junket representative or person acting as a junket representative shall: (i) engage in efforts to collect upon checks that have been returned by banks without full and final payment; (ii) exercise approval authority with regard to the authorization or issuance of credit under this chapter; (iii) act on behalf of or under any arrangement with a gaming licensee or a gaming patron with regard to the redemption, consolidation or substitution of the gaming patron's checks awaiting deposit; (iv) individually receive or retain any fee from a patron for the privilege of participating in a junket; or (v) pay for any services, including transportation, or other items of value provided to, or for the benefit of, any patron participating in a junket.

Section 23. (a) No gaming licensee shall offer complimentary services, gifts, cash or other items of value to any person unless those complimentary services or items are provided through a complimentary distribution program which shall be filed and approved by the board upon the implementation of the program or maintained under regulations adopted under section 5.

(b) Gaming licensees shall submit quarterly reports to the board covering all complimentary services offered or engaged in by the licensee during the immediately preceding

quarter. The reports shall identify regulated complimentary services and the costs of those services, the number of people who received each service or item and such other information as the board may require. The report shall also document any services or items valued in excess of \$2,000 that were provided to patrons, including detailed reasons as to why they were provided.

(c) Complimentary services or items shall be valued in an amount based upon the retail price normally charged by the gaming licensee for the service or item. The value of a complimentary service or item not normally offered for sale by a gaming licensee or provided by a third party on behalf of a gaming licensee shall be the cost to the gaming licensee of providing the service or item, as determined under rules adopted by the commission.

Section 24. (a) Upon revocation or suspension of a gaming license under section 26 or upon the failure or refusal to renew a gaming license the commission may appoint a conservator to temporarily manage and operate the business of the licensee relating to the gaming establishment. Such conservator shall be a person of similar experience in the field of gaming management and, in the case of replacing a gaming licensee, shall have experience operating a gaming establishment of similar caliber in another jurisdiction, and shall be in good standing in all jurisdictions in which the conservator operates a gaming establishment.

Upon appointment, a conservator shall agree to all licensing provisions of the former licensee.

(b) A conservator shall, before assuming managerial or operational duties, execute and file a bond for the faithful performance of such duties payable to the board with such surety and in such form and amount as the board shall approve.

(c) The board shall require that the former or suspended licensee purchase liability insurance, in an amount determined by the board, to protect a conservator from liability for acts

or omissions of the conservator during the conservator's appointment reasonably related to, and within the scope of, the conservator's duties.

(d) During the period of temporary management of the gaming establishment, the commission shall initiate proceedings under this chapter to award a new gaming license to a qualified applicant whose gaming establishment shall be located at the site of the preexisting gaming establishment.

(e) Applicants for a new gaming license shall be qualified for licensure under this chapter; provided, however, that the commission shall determine an appropriate level of investment by an applicant into the preexisting gaming establishment.

(f) Upon award of a new gaming license, the new gaming licensee shall pay the licensing fee.

Section 25. (a) There shall be within the board an investigations and enforcement bureau, which shall be the primary enforcement agent for regulatory matters under this chapter. The bureau shall perform such functions as the chair of the board determines in relation to enforcement, including the investigations of all licensees under this chapter. The bureau shall be under the supervision and control of the deputy director for investigations and enforcement. The deputy director shall be the executive and administrative head of the bureau and shall be responsible for administering and enforcing the law relative to the bureau and to each administrative unit of the bureau. The duties given to the deputy director in this chapter and in any other general or special law shall be exercised and discharged subject to the direction, control and supervision of the chair of the board.

(b) The bureau shall be a law enforcement agency and its employees shall have such law enforcement powers as to effectuate the purposes of this chapter, including the power to receive

1589 intelligence on an applicant or licensee under this chapter and to investigate a suspected violation
1590 of this chapter.

1591 (c) Officers and employees of the gaming enforcement unit of the state police assigned to
1592 the commission under section 70 of chapter 22C shall work with employees of the bureau, under
1593 the direction of the deputy director, to investigate violations of this chapter by a licensee under
1594 this chapter or any activity taking place on the premises of a gaming establishment. Officers
1595 assigned to work with the bureau shall record their time and submit total hours to the bureau. The
1596 board shall reimburse the state police.

1597 (d) The bureau shall notify the division of gaming enforcement in the office of the
1598 attorney general of any criminal violations by a gaming licensee. The bureau and the division
1599 shall cooperate on the regulatory and criminal enforcement of this chapter and may determine
1600 whether to proceed with civil or criminal sanctions, or both against said licensee.

1601 (e) To further effectuate the purposes of this chapter with respect to the investigation and
1602 enforcement of licensed gaming establishments and licensees, the bureau may obtain or provide
1603 pertinent information regarding applicants or licensees from or to law enforcement entities or
1604 gaming authorities and other domestic, federal or foreign jurisdictions, including the federal
1605 bureau of investigation and may send or receive such information electronically.

1606 (f) The gaming enforcement unit of the department of state police shall have exclusive
1607 police jurisdiction of any criminal activity relating to the operation of a gaming establishment or
1608 relating to games or gaming that occurs inside a gaming establishment; provided, however, that
1609 the state police shall have concurrent jurisdiction with the law enforcement agency of the host
1610 community on all other policing matters and, in consultation with the board, shall execute a
1611 memorandum of understanding with the law enforcement agency of the host community that shall
1612 include, but not be limited to, procedures involving: (i) assignment of police officers of the host

community to the gaming enforcement unit of the state police; (ii) first responder calls from the gaming establishment; (iii) emergencies occurring within the gaming establishment, including the gaming area; and (iv) criminal investigations involving employees or patrons of the gaming establishment.

Section 26. (a) The board shall have the authority to issue orders requiring persons to cease activity which violates this chapter, a regulation adopted under this chapter or a law related to gaming in the commonwealth. The board may, in its order, require compliance with such terms and conditions as are reasonably necessary to effectuate the purposes of this chapter.

(b) If the board finds, under the procedures established in this section and the regulations adopted under said section 5, that a person is not in compliance with an order issued under this section, it shall assess a civil administrative penalty on such person and the regulations adopted under section 5. The penalty may be assessed whether or not the violation was willful. In determining the amount of the civil penalty, the board shall consider: (i) the nature of the violation; (ii) the length of time the violation occurred; (iii) the risk to the public and to the integrity of gaming operations created by the conduct of the person; (iv) the seriousness of the conduct of the person; (v) any justification or excuse for such conduct by the person; (vi) the prior history of the particular person involved with respect to gaming activity; (vii) any corrective action taken by person to prevent future misconduct; and (viii) other relevant factors.

(c) In addition to collecting any civil penalties recoverable under this chapter or any other general or special law, the board may bring an action in the superior court to restrain, prevent or enjoin any conduct prohibited by this chapter or to compel action to comply immediately and fully with an order issued by the bureau. Except in the case of an emergency during which, in the opinion of the court, immediate abatement of the unlawful conduct is required to protect the public interest, the court may in its decree fix a reasonable time during which the person

responsible for the unlawful conduct may abate and correct the violation. The expense of the proceeding shall be recoverable from the subject of the proceeding.

(d) Upon a recommendation from the board, the commission may issue orders to condition, suspend or revoke a license or permit issued under this chapter.

(e) The board may issue an order to cease and desist any activity if the board finds that a licensee has engaged in or is about to engage in an act or practice which constitutes a violation of this chapter or laws of the commonwealth and may take such affirmative action to effectuate the order. If the board finds that the licensee is engaged in an act or practice that would cause irreparable harm to the security and integrity of the gaming establishment or the interests of the commonwealth in ensuring the security and integrity of gaming under this chapter, the board may issue a temporary suspension of the license.

(f) Any licensee who has been issued a temporary order of suspension by the board shall be entitled to a hearing before the commission on such suspension within 7 days of the day on which the order was issued. At the conclusion of the hearing, the commission may issue a final order to condition, suspend or revoke the license in question.

(g) Any licensee shall have the right to an adjudicatory hearing on an order issued by the board under chapter 30A.

Section 27. (a) The board may assess a civil administrative penalty on a licensee or registrant who fails to comply with any provision of this chapter or any regulation or order adopted by the commission; provided, however, that such noncompliance occurred after the board had given the licensee or registrant written notice of such noncompliance and the time stated in the notice for coming into compliance had elapsed. The board may assess a civil administrative penalty on a licensee or registrant without providing written notice of such noncompliance if the

failure to comply: (i) was part of a pattern of noncompliance and not an isolated instance; (ii) was willful or neglectful and not the result of error; (iii) resulted in a significant breach to the integrity of the gaming establishment or gaming laws of the commonwealth; and (iv) consisted of failure to promptly report to the board any knowledge of evidence or circumstances that would cause a reasonable person to believe that a violation of this chapter had been committed. The civil administrative penalty shall be in addition to any other civil penalty that may be prescribed by law.

(b) For the purpose of determining whether such noncompliance was part of a pattern of noncompliance and not an isolated instance, the board shall consider without limitation the following: (i) whether the board had previously notified the person of such noncompliance on more than 1 occasion during the previous month or of any noncompliance similar to the current noncompliance during the previous 6 months; or (ii) whether the current and previous instances of noncompliance, considered together, indicate a potential threat to the integrity of the gaming establishment and gaming in the commonwealth or an interference with the commission's ability to efficiently and effectively regulate gaming in the commonwealth and enforce any regulation, license or order. If a licensee or registrant who has received a notice of noncompliance fails to come into compliance within the time period stated in such notice, the civil administrative penalty may be assessed by the board upon such licensee or registrant from the date of receipt of such notice.

(c) Whenever the board seeks to assess a civil administrative penalty on a licensee or registrant, the board shall cause to be served upon such licensee or registrant, either by service, in hand, or by certified mail, return receipt requested, a written notice of the board's intent to assess a civil administrative penalty which shall include:

(i) a concise statement of the alleged act or omission for which the board seeks to assess the civil administrative penalty;

(ii) each law, regulation, order, license or approval which has not been complied with as a result of the alleged act or omission;

(iii) the amount which the board seeks to assess as a civil administrative penalty for each such alleged act or omission;

(iv) a statement of the licensee's or registrant's right to an adjudicatory hearing on the proposed assessment;

(v) the requirements such licensee or registrant shall comply with to avoid waiving the licensee's or registrant's right to an adjudicatory hearing; and

(vi) the manner of payment of the penalty if the licensee or registrant elects to pay the penalty and waive an adjudicatory hearing.

After written notice of noncompliance or intent to assess a civil administrative penalty has been given, each subsequent day during which such noncompliance occurs or continues shall constitute a separate offense and may be subject to a separate civil administrative penalty if reasonable efforts have not been made by the licensee or registrant to promptly come into compliance.

(d) Whenever the board seeks to assess a civil administrative penalty on a licensee or registrant, such licensee or registrant shall have the right to an adjudicatory hearing. Chapter 30A shall apply to adjudicatory hearings under this chapter; provided, that, if there is a conflict between this chapter and said chapter 30A, this chapter shall govern.

1704 (e) A licensee or registrant shall be deemed to have waived the licensee's or registrant's
1705 right to an adjudicatory hearing unless, within 21 days of the date of the board's notice that it
1706 seeks to assess a civil administrative penalty, the licensee or registrant files with the board a
1707 written statement denying the occurrence of the acts or omissions alleged by the board in such
1708 notice or asserting that the amount of the proposed civil administrative penalty is excessive. In an
1709 adjudicatory hearing the board shall be required to prove the occurrence of each act or omission
1710 alleged by the board by a preponderance of the evidence.

1711 (f) If a licensee or registrant waives the licensee's or registrant's right to an adjudicatory
1712 hearing, the proposed civil administrative penalty shall be final immediately upon such waiver. If
1713 a civil administrative penalty is assessed at the conclusion of an adjudicatory hearing, the civil
1714 administrative penalty shall be final upon the expiration of 30 days if no action for judicial review
1715 of the decision is commenced under chapter 30A.

1716 (g) A licensee or registrant who institutes proceedings for judicial review of the final
1717 assessment of a civil administrative penalty shall place the full amount of the final assessment in
1718 an interest-bearing escrow account in the custody of the clerk or magistrate of the reviewing
1719 court. The establishment of such an interest-bearing escrow account shall be a condition
1720 precedent to the jurisdiction of the reviewing court unless the party seeking judicial review
1721 demonstrates in a preliminary hearing held within 30 days of the filing of the complaint an
1722 inability to pay. Upon such a demonstration, the court may grant an extension or waiver of the
1723 interest-bearing escrow account or may require, in lieu of such interest-bearing escrow account,
1724 the posting of a bond payable directly to the commonwealth in the amount of 125 per cent of the
1725 assessed penalty.

1726 (i) If, after judicial review, in a case where the requirement for an escrow account
1727 has been waived, and in cases where a bond has been posted in lieu of such requirement, the court

affirms, in whole or in part, the assessment of a civil administrative penalty the board shall be paid the amount of the penalty together with interest at the rate set forth in section 6C of chapter 231.

(ii) If, after such review in a case where an interest-bearing escrow account has been established, the court affirms the assessment of such penalty, in whole or in part, the board shall be paid the amount of the penalty together with the accumulated interest on the amount of the penalty in such interest-bearing escrow account.

(iii) If the court sets aside the assessment of a civil administrative penalty in a case where the amount of such penalty has been deposited in an interest-bearing escrow account, the licensee or registrant on whom the civil administrative penalty was assessed shall be repaid the amount so set aside, together with the accumulated interest on the amount deposited.

(h) Each licensee or registrant who fails to pay a civil administrative penalty in a timely fashion, and each person who issues a bond under this section and who fails to pay to the board in a timely fashion the required amount, shall be liable to the commonwealth for up to 3 times the amount of the civil administrative penalty, or the amount of economic benefit realized by the licensee or registrant as a result of noncompliance, whichever is greater, together with costs, plus interest from the time the civil administrative penalty became final and attorneys' fees, including all costs and attorneys' fees incurred directly in the collection of the penalty. The rate of interest shall be the rate set forth in section 6C of chapter 231.

Section 28. (a) Whoever conducts or operates, or permits to be conducted or operated, any game or gaming device in violation of this chapter or the regulations adopted under this chapter shall be punished by imprisonment in the state prison for not more than 5 years or imprisonment in the house of correction for not more than 2½ years, or by a fine not to exceed

1751 \$25,000, or both, and in the case of a person other than a natural person, by a fine not to exceed
1752 \$100,000.

1753 (b) Whoever employs, or continues to employ, an individual in a position, the duties of
1754 which require a license or registration under this chapter, who is not so licensed or registered,
1755 shall be punished by imprisonment the house of correction for not more than 6 months, or by a
1756 fine not to exceed \$10,000, or both, and in the case of a person other than a natural person, by a
1757 fine not to exceed \$100,000.

1758 (c) Whoever works or is employed in a position, the duties of which require licensing or
1759 registration under this chapter, without the required license or registration, shall be punished by
1760 imprisonment in the house of correction for not more than 6 months or a fine not to exceed
1761 \$10,000, or both.

1762 (d) A gaming licensee who, without the permission of the commission: (i) places a
1763 game or gaming device into play or displays a game or gaming device in a gaming establishment;
1764 or (ii) receives, directly or indirectly, any compensation or reward or any percentage or share of
1765 the revenue for keeping, running or carrying on a game, or owning the real property upon, or the
1766 location within which any game occurs, shall be punished by imprisonment in the house of
1767 correction for not more than 2½ years or by a fine not to exceed \$25,000, or both, and in the case
1768 of a person other than a natural person, by a fine not to exceed \$100,000.

1769 (e) Whoever conducts or operates any game or gaming device after the person's gaming
1770 license has expired and prior to the actual renewal of the gaming license shall be punished by
1771 imprisonment in the house of correction for not more than 1½ years or a fine not to exceed
1772 \$25,000, or both, and in the case of a person other than a natural person, by a fine not to exceed
1773 \$100,000.

1774 (f) A gaming licensee who knowingly fails to exclude from the licensee's gaming
1775 establishment any person placed by the commission on the list of excluded persons shall be
1776 punished by a fine not to exceed \$5,000 or by imprisonment in the house of correction for not
1777 more than 1 year, or both, and in the case of a person other than a natural person, by a fine not to
1778 exceed \$100,000.

1779 (g) Whoever willfully:

1780 (i) fails to report, pay or truthfully account for and pay over a license fee or tax
1781 imposed by this chapter or by the regulations adopted under this chapter; or

1782 (ii) evades or defeats, or attempts to evade or defeat, a license fee or tax or
1783 payment of a license fee or tax shall be punished by imprisonment in the state prison for not more
1784 than 5 years or in the house of correction for not more than 2½ years or a fine not to exceed
1785 \$100,000, or both, and in the case of a person other than a natural person, by a fine not to exceed
1786 \$5,000,000.

1787 **Section 29.** Whoever willfully resists, prevents, impedes, interferes with, or makes any
1788 false, fictitious or fraudulent statement or representation to the board, bureau, commission, or
1789 division or to agents or employees of the board, bureau, commission or division in the
1790 lawful performance of the agent's or employee's duties under this chapter shall be punished by
1791 imprisonment in the state prison for not more than 5 years or in the house of correction for not
1792 more than 2½ years, or by a fine not to exceed \$25,000, or both.

1793 **Section 30.** (a) Whoever, during a game in a gaming establishment, knowingly and by
1794 any trick or sleight of hand performance or by a fraud or fraudulent scheme, cards, dice or other
1795 gaming device, for himself, for another or for a representative of either:

1796 (i) wins, or attempts to win, money or property; or

1797 (ii) reduces, or attempts to reduce, a losing wager in a gaming establishment shall
1798 be guilty of cheating and swindling.

1799 (b) Whoever knowingly uses a cheating and swindling device or game in a gaming
1800 establishment shall be guilty of cheating and swindling.

1801 (c) Whoever commits the offense of cheating and swindling shall be punished as follows:

1802 (i) if the value of the money, property or wager cheated and swindled is \$75,000
1803 or more, by imprisonment in the state prison for not more than 10 years or in the house of
1804 correction for not more than 2½ years or by a fine not to exceed \$1,000,000, or both, and in the
1805 case of a person other than a natural person, by a fine not to exceed \$10,000,000;

1806 (ii) if the value of the money, property or wager cheated and swindled is \$10,000
1807 or more but less than \$75,000, by imprisonment in the state prison for not more than 5 years or in
1808 the house of correction for not more than 2½ years or by a fine not to exceed \$500,000, or both,
1809 and in the case of a person other than a natural person, by a fine not to exceed \$5,000,000;

1810 (iii) if the value of the money, property or wager cheated and swindled is \$1,000
1811 or more but less than \$10,000, by imprisonment in the state prison for not more than 3 years or in
1812 the house of correction for not more than 2½ years or by a fine not to exceed \$100,000, or both,
1813 and in the case of a person other than a natural person, by a fine not to exceed \$1,000,000;

1814 (iv) if nothing of value was obtained in violation of this subsection or if the value
1815 of the money, property or wager cheated and swindled is less than \$1,000, by imprisonment in the
1816 house of correction for not more than 2½ years or by a fine not to exceed \$10,000, or both, and in
1817 the case of a person other than a natural person, by a fine not to exceed \$100,000.

1818 (d) Each episode or transaction of swindling and cheating may be the subject of a
1819 separate prosecution and conviction. In the discretion of the commonwealth, multiple episodes or

1820 transactions of swindling and cheating committed as part of a single scheme or course of conduct
1821 may be treated as a single offense and the amounts involved in acts of swindling and cheating
1822 committed according to a scheme or course of conduct, whether by the same person or several
1823 persons, may be aggregated in determining the value of money, property or wager involved in the
1824 offense.

1825 (e) A gaming licensee, or an employee of a gaming licensee, who, in a gaming
1826 establishment, knowingly:

1827 (i) conducts or operates any game using a cheating and swindling device or
1828 game;

1829 (ii) displays for play a cheating and swindling game; or

1830 (iii) permits to be conducted, operated or displayed, any cheating and swindling
1831 device or game shall be punished by imprisonment in the state prison for not more than 5 years or
1832 imprisonment in the house of correction for not more than 2½ years, or by a fine not to
1833 exceed \$25,000, or both, and in the case of a person other than a natural person, by a fine not to
1834 exceed \$100,000.

1835 **Section 31.** (a) Whoever possesses a cheating and swindling device or game, with the
1836 intent to defraud, cheat or steal, shall be punished by imprisonment in the house of correction for
1837 not more than 2½ years, or by a fine not to exceed \$10,000, or both, and in the case of a person
1838 other than a natural person, by a fine not to exceed \$100,000.

1839 (b) Possession of a cheating and swindling device or game within a gaming establishment
1840 shall constitute prima facie evidence of an intent to defraud, cheat or steal, except possession by a
1841 licensee or an employee of a licensee, acting lawfully in furtherance of such person's

employment within the gaming establishment, shall be punished by imprisonment in the house of correction for not more than 2½ years, or a fine not to exceed \$10,000, or both.

Section 32. Whoever manufactures, distributes, sells or services a gaming device, in violation of this chapter or regulations adopted under this chapter and for the purpose of defrauding, cheating or stealing from a person playing, operating or conducting a game in a gaming establishment, shall be punished by imprisonment in the state prison for not more than 5 years or imprisonment in the house of correction for not more than 2½ years, or by a fine not to exceed \$25,000, or both, and in the case of a person other than a natural person, by a fine not to exceed \$150,000.

Section 33. (a) Any device, game or gaming device possessed, used, manufactured, distributed, sold or serviced in violation of this chapter shall be subject to seizure and forfeiture by the division or bureau. Forfeiture proceedings shall be conducted as provided in subsections (b) to (j), inclusive, of section 47 of chapter 94C. For purposes of subsection (d) of said section 47 of said chapter 94C, the commission shall be considered a police department, entitled to a police department's distribution of forfeiture proceedings.

Section 34. (a) Whoever, being under 21 years old, plays, places wagers at, or collects winnings from, whether personally or through an agent, a game in a gaming establishment shall be punished by imprisonment in the house of correction for not more than 6 months or a fine not to exceed \$1,000, or both.

(b) Whoever, being a gaming licensee or an employee of a gaming licensee, who knowingly allows a person under the age of 21 to play, place wagers at, or collect winnings from a game in a gaming establishment, whether personally or through an agent, shall be punished, for a first offense, by imprisonment in a the house of correction for not more than 1 year or a fine not to exceed \$10,000, or both, and in the case of a person other than a natural person, by a fine not to

1866 exceed \$500,000 and, for a second or subsequent offense, by imprisonment in the house of
1867 correction for not more than 2 years or a fine not to exceed \$50,000, or both, and in the case of a
1868 person other than a natural person, by a fine not to exceed \$1,000,000.

1869 **Section 35.** (a) The board shall, by regulation promulgated under section 5, provide for
1870 the establishment of a list of excluded persons who are to be excluded or ejected from a gaming
1871 establishment. In determining the list of excluded persons, the board may consider, but shall not
1872 be limited to:

1873 (1) whether a person has been convicted of a criminal offense under the laws of
1874 any state or the United States that is punishable by more than 6 months in prison, a crime of
1875 moral turpitude or a violation of the gaming laws of any state;

1876 (2) whether a person has violated or conspired to violate this chapter relating to:

1877 (i) failure to disclose an interest in a gaming establishment for which the
1878 person must obtain a license; or

1879 (ii) willful evasion of fees or taxes;

1880 (3) whether a person has a notorious or unsavory reputation which would
1881 adversely affect public confidence and trust that the gaming industry is free from criminal or
1882 corruptive elements; and

1883 (4) the potential of injurious threat to the interests of the commonwealth in the
1884 gaming establishment.

1885 (b) No person shall be placed on the list of excluded persons due to race, color, religion,
1886 national origin, ancestry, sexual orientation, disability or sex.

(c) The board may revoke, limit, condition, suspend or fine a gaming establishment if such establishment knowingly fails to exclude or eject from its premises any person placed by the commission on the list of excluded persons.

(d) Whenever the board places a name on the list of excluded persons, the board shall serve written notice upon that person by personal service, registered or certified mail return receipt requested to the last ascertainable address, or by publication in a daily newspaper of general circulation for 1 week.

(e)(1) Within 30 days of receipt of service by mail or 60 days after the last publication under subsection (d), a person placed on the list of excluded persons may request an adjudicatory hearing before the commission under chapter 30A and show cause as to why the person should be removed from the list of excluded persons. Failure to demand a hearing within the time allotted in this section shall preclude the person from having an administrative hearing, but in no way affect the person's right to petition for judicial review.

(2) Upon receipt of a demand for hearing, the commission shall set a time and place for the hearing. This hearing shall be held not later than 30 days after receipt of the demand for the hearing, unless the time of the hearing is changed by agreement of the commission and the person demanding the hearing.

(3) If, upon completion of the hearing, the commission determines that the person was wrongfully placed on the list of excluded persons, the commission shall remove the person's name from the list of excluded persons and notify all gaming licensees. A person aggrieved by a final decision of the commission in an adjudicatory proceeding under this section may petition for judicial review under section 14 of chapter 30A.

(f) The board shall establish a list of self-excluded persons from gaming establishments. A person may request such person's name to be placed on the list of self-excluded persons by

1911 filing a statement with the board acknowledging that the person is a problem gambler and by
1912 agreeing that, during any period of voluntary exclusion, the person may not collect any winnings
1913 or recover any losses resulting from any gaming activity at a gaming establishment. The
1914 commission shall adopt further regulations, under section 5, for the self-excluded persons list
1915 including procedures for placement, removal and transmittal of such list to gaming
1916 establishments.

1917 (g) Gaming establishments shall not market to persons on the excluded persons list and
1918 shall deny access to complimentaries, check cashing privileges, club programs and other similar
1919 benefits to persons on the self-excluded persons list.

1920 (h) Notwithstanding any other law to the contrary, the self-excluded persons list shall not
1921 be open to public inspection. Nothing in this section, however, shall prohibit a gaming
1922 establishment from disclosing the identity of persons on the self-excluded persons list under this
1923 section to affiliated gaming establishments in this commonwealth or other jurisdictions for the
1924 limited purpose of assisting in the proper administration of responsible gaming programs operated
1925 by affiliated gaming establishments.

1926 (i) As used in this subsection the following words shall, unless the context clearly
1927 requires otherwise, have the following meanings:-

1928 (i) "Problem gambler", shall mean a person who chronically or habitually
1929 gambles to the extent that: (1) such gambling substantially interferes with the person's
1930 social or economic functioning; or (2) the person has lost the power of self-control over
1931 such person's gambling.

1932 (ii) "Relative", the father or mother of an individual; a stepfather, stepmother,
1933 stepbrother, stepsister, or any blood relative of an individual, including those of the half

1934 blood, except cousins who are more distantly related than first cousins; any adoptive
1935 relative of equal propinquity to the foregoing; or a spouse of any such persons.

1936 A police officer, physician, spouse, relative, guardian or court official may petition, in
1937 writing, a district court for an order of exclusion from gaming establishments a person whom the
1938 petitioner has reason to believe is a problem gambler. Upon receipt of a petition for an order of
1939 exclusion of a person and any sworn statements the court may request from the petitioner, the
1940 court shall immediately schedule a hearing on the petition and shall cause a summons and a copy
1941 of the petition to be served upon the person as provided by section 25 of chapter 276. The person
1942 may be represented by legal counsel and may present independent expert or other testimony. The
1943 court shall order examination by a qualified psychologist.

1944 If, after a hearing, the court based upon competent testimony finds that said person is a
1945 problem gambler and there is a likelihood of serious harm as a result of the person's gambling,
1946 the court may order that such person be prohibited from gaming in gaming establishments. The
1947 court shall communicate this order to the board, which shall place the person's name on the list of
1948 excluded persons.

1949 (j) A person who is prohibited from gaming in a gaming establishment under this section
1950 shall not collect any winnings or recover losses arising as a result of prohibited gaming.
1951 Winnings obtained by a person who is prohibited from gaming in a gaming establishment shall be
1952 forfeited to the board.

1953 (k) A person who enters the premises of a gaming establishment after having been placed
1954 on the list of excluded persons, without first having obtained a determination by the commission
1955 that such person should not have been placed on the list of excluded persons, shall be punished by
1956 imprisonment in a jail or house of correction for not more than 2½ years or by a fine of not more
1957 than \$10,000, or both.

1958 **Section 36.** A gaming establishment offering a cashless wagering system shall allow
1959 individuals to monitor and impose betting limits on their cashless wagering. The gaming
1960 establishment shall allow individuals to set betting limits on their cashless wagering including,
1961 but not limited to, per bet limits, hourly limits, daily limits, weekly limits and monthly limits. An
1962 individual may lower limits and increase limits; provided, that, the player shall not increase
1963 betting limits more than once in a 24 hour period. Upon request by an individual, the gaming
1964 establishment shall provide to that individual a statement of that individual's cashless wagering
1965 activity for any given time period including total bets, wins and losses. Activity under this section
1966 shall be monitored by the board. Individuals on the list of excluded persons or list of self-
1967 excluded persons shall not be permitted to participate in a cashless wagering system.

1968 **Section 37.** A liability to the commonwealth under this chapter shall constitute a debt to
1969 the commonwealth. Once a statement naming a licensee is recorded, registered or filed, any such
1970 debt shall constitute a lien on all commercial property owned by a gaming licensee in the
1971 commonwealth, and shall have priority over an encumbrance recorded, registered or filed with
1972 respect to any site.

1973 **Section 38.** (a) Prior to disbursement of cash or prizes in excess of \$600, a licensee shall
1974 review information made available by the IV-D agency, as set forth in chapter 119A and by the
1975 department of revenue to ascertain whether the winner of the cash or prize owes past due child
1976 support to the commonwealth or to an individual to whom the IV-D agency is providing services,
1977 and to ascertain whether the winner of the cash or prize owes any past due tax liability to the
1978 commonwealth.

1979 (b) If the winner of the cash or prize owes past due child support or a past due tax
1980 liability, the licensee shall notify the IV-D agency or the commonwealth, respectively, of the
1981 winner's name, address and social security number. Subsequent to statutory and federal tax
1982 withholding, the licensee shall first disburse to the IV-D agency the full amount of the cash or

prize or such portion of the cash or prize that satisfies the winner's past due child support obligation.

(c) If funds remain available after the disbursement to the IV-D agency, or if no such obligation to the IV-D agency is owed, the licensee shall disburse to the department of revenue the full amount of the cash or prize or such portion of the cash or prize that satisfies the winner's past due tax liability.

(d) The licensee shall disburse to the winner only that portion of the cash or prize, if any, remaining after the winner's past due child support obligation and the winner's past due tax liability have been satisfied.

Section 39. Gaming licensees shall, on a monthly basis, transmit to the department of transitional assistance and to the IV-D agency, as set forth in chapter 119A, a list of all persons who were awarded cash winnings, or a prize, valued in excess of \$600.00 in the prior month. The information shall be provided in a format which is compatible with the automated data processing systems of said department and said agency, to ensure the immediate identification of persons who may be receiving public assistance benefits. The information provided shall include the name, address and social security number of the person who was awarded the cash or prize valued in excess of \$600.00.

Section 40. Unclaimed cash and prizes shall be retained by the gaming licensee for the person entitled to the cash or prize for 1 year after a game in which the cash or prize was won. If no claim is made for the cash or prize within 1 year, the cash or equivalent cash value of the prize shall be deposited with the board.

Section 41. If the person entitled to cash or a prize is under the age of 21 years, said cash or prize shall be remitted to the board.

2006 **Section 42.** A gaming establishment, including a business located within such
2007 establishment, shall not be a certified project within the meaning of section 3F of chapter 23A;
2008 shall not be designated an economic opportunity area within the meaning of section 3E of chapter
2009 23A; shall not be eligible for tax increment financing as set forth in section 59 of chapter 40 or
2010 special tax assessments set forth in section 3E of chapter 23A; shall not be classified and taxed as
2011 recreational land under chapter 61B; and shall not be designated as a development district within
2012 the meaning of chapter 40Q.

2013 Unless otherwise provided, a gaming establishment or a business located or to be located
2014 within such establishment shall not be eligible for the following credits or deductions listed in
2015 chapter 62 or chapter 63: the investment tax credit under section 31A of chapter 63, the
2016 employment credit under section 31C of chapter 63, the shuttle van credit under section 31E of
2017 chapter 63, the deduction for expenditures for industrial waste treatment or air pollution control
2018 under section 38D of chapter 63, the deduction for compensation paid to an eligible business
2019 facility's employees domiciled in a section of substantial poverty under section 38F of chapter 63,
2020 the alternative energy sources deduction under section 38H of chapter 63, the research expense
2021 credit under section 38M of chapter 63, the economic opportunity area credit under subsection (g)
2022 of section 6 of chapter 62 and section 38N of chapter 63, the abandoned building deduction under
2023 paragraph (10) of subsection (a) of Part B of section 3 of chapter 62 and section 38O of chapter
2024 63, the harbor maintenance tax credit under section 38P of chapter 63, the film tax credit under
2025 subsection (I) of section 6 of chapter 62 and section 38X of chapter 63, the environmental
2026 response action tax credit under subsection (j) of section 6 of chapter 62 and section 38Q of
2027 chapter 63, the historic rehabilitation tax credit under section 6J of chapter 62 and section 38R of
2028 chapter 63 or the automatic sprinkler system depreciation deduction under section 38S of chapter
2029 63.

2030 **Section 43.** The board shall audit as often as the board determines necessary, but not less
2031 than annually, the accounts, programs, activities and functions of all licensees. To conduct the

audit, the authorized officers and employees of the board shall have access to such accounts at reasonable times and the board may require the production of books, documents, vouchers and other records relating to a matter within the scope of such audit. The superior court shall have jurisdiction to enforce the production of records that the board requires to be produced under this section and the court shall order the production of all such records within the scope of any such audit. All such audits shall be conducted in accordance with generally accepted auditing standards established by the American Institute of Certified Public Accountants. In any audit report of the accounts, funds, programs, activities and functions of a licensee issued by the board, containing adverse or critical audit results, the board may require a response, in writing, to the audit results. The response shall be forwarded to the board within 15 days of notification by the board.

On or before April 1 of each year, the board shall submit a report to the clerks of the house of representatives and the senate who shall forward the report to the house and senate committees on ways and means which shall include, but not be limited to: (i) the number of audits performed under this section; (ii) a summary of findings under the audits; and (iii) the cost of each audit.

Section 44. Unless the board otherwise determines it to be in the best fiscal interests of the commonwealth, the board shall utilize the services of 1 or more independent testing laboratories that are registered to perform the testing of gaming equipment and slot machines and may also utilize any additional services or applicable data from 1 or more independent testing laboratories.

The board shall develop standards to register independent testing laboratories to perform the testing of gaming equipment and slot machines. Each said independent testing laboratory shall, at a minimum, meet the requirements of sections 11 and 14, shall not be owned or controlled by, or have any interest in, a gaming licensee, a gaming vendor or slot machine

2056 manufacturer and shall provide such information as the board may require in order to qualify for
2057 registration.

2058 **Section 45.** Live entertainment in an entertainment venue in the gaming establishment
2059 with more than 1,000 seats must be approved by the board. A gaming establishment shall submit
2060 information regarding a planned performance for live entertainment in an entertainment venue in
2061 the gaming establishment with more than 1,000 seats to the board not less than 3 months prior to
2062 the performance. The board shall submit this information to the massachusetts cultural council
2063 for a recommendation on whether to approve or deny the performance. The council may also
2064 make recommendations as to whether the performance should be approved under certain
2065 conditions, which may include, but not be limited to, a contract term requiring the live
2066 entertainment performer to perform another show in the commonwealth, not at a gaming
2067 establishment, within 6 months of performing at the gaming establishment. If the board deviates
2068 from the council's recommendation, the board shall state its reasons for doing so in writing.

2069 **Section 46.** (a) There shall be a gaming policy advisory committee consisting of 14
2070 members: 1 of whom shall be the governor, or the governor's designee, who shall serve as chair;
2071 1 of whom shall be the chair of the commission; 1 of whom shall be the chair of the board; 1 of
2072 whom shall be the senate president or the president's designee; 1 of whom shall be the speaker of
2073 the house of representatives or the speaker's designee; 1 of whom shall be the commissioner of
2074 public health or the commissioner's designee; and 7 of whom shall be appointed by the governor,
2075 3 of whom shall be representatives of gaming licensees, 1 of whom shall be a representative of a
2076 federally recognized Native American tribe in the commonwealth, 1 of whom shall be a
2077 representative of organized labor, and 3 of whom shall be appointed from the vicinity of each
2078 gaming establishment upon determination of the licensee and site location by the commission.
2079 The committee may designate subcommittees to examine community mitigation, compulsive
2080 gambling, and gaming impacts on cultural and tourism. Members of the committee shall serve

for 2 year terms. The committee shall meet at least once annually for the purpose of discussing matters of gaming policy. The recommendations of the committee concerning gaming policy made under this section are advisory and shall not be binding on the commission and board.

(b) There shall be a subcommittee on cultural facilities under the gaming policy advisory committee consisting of 5 members: 1 of whom shall be a representative of the Massachusetts cultural coalition; 1 of whom shall be a representative from the Massachusetts cultural council; 1 of whom shall be a representative of the board; and 2 of whom shall be appointed by the governor, 1 of whom shall have professional experience in the gaming entertainment booking industry and 1 of whom shall be a representative of organized labor. The subcommittee shall develop recommendations for regulations to be developed by the board to address cultural mitigation, including but not limited to: the relationship between gaming entertainment venues and currently existing performing arts centers in the commonwealth and standards for granting waivers of the requirements in section 45.

(c) There shall be a subcommittee on community mitigation under the gaming policy advisory committee consisting of 7 members: 1 of whom shall be appointed from the host community in region 1; 1 of whom shall be appointed from the host community in region 2; 1 of whom shall be appointed from the host community in region 3; 1 of whom shall be a representative from the department of revenue's division of local services; 1 of whom shall be a representative of the board; 1 of whom shall be appointed by the governor and have professional experience in community mitigation related to gaming; and 1 of whom shall be a representative from the Massachusetts municipal association. The subcommittee shall develop recommendations for regulations to be developed by the board to address issues of community mitigation as a result of the development of gaming establishments in the commonwealth, including but not limited to: how funds may be expended from the Community Mitigation Fund, the impact of gaming establishments on the host community as well as surrounding communities and how to address

2106 that impact. The subcommittee shall receive input from local community mitigation advisory
2107 committees.

2108 (d) There shall be a subcommittee on addiction services under the gaming policy
2109 advisory committee consisting of 5 members: 1 of whom shall be a representative from the
2110 department of public health's bureau of substance abuse services; 1 of whom shall be a
2111 representative from the Massachusetts Council on Compulsive Gambling, Inc.; 1 of whom shall
2112 be a representative of the board; and 2 of whom shall be appointed by the governor with
2113 professional experience in the area of gambling addictions. The subcommittee shall develop
2114 recommendations for regulations to be developed by the board to address issues related to
2115 addiction services as a result of the development of gaming establishments in the commonwealth,
2116 including by not limited to, prevention and intervention strategies.

2117 (e) There shall be a subcommittee on public safety under the gaming policy advisory
2118 committee consisting of 7 members: 1 of whom shall be a member of the board; 1 of whom shall
2119 be the secretary of the executive office of public safety or the secretary's designee; 1 of whom
2120 shall be the attorney general or the attorney general's designee; 1 of whom shall be a
2121 representative from the Massachusetts District Attorneys Association; 1 of whom shall be the
2122 colonel of the state police or the colonel's designee; 1 of whom shall be a representative from the
2123 Massachusetts Chiefs of Police Association; and 1 of whom shall be a representative of a public
2124 safety labor union. The subcommittee shall develop recommendations for regulations to be
2125 developed by the board to address public safety issues as a result of the development of gaming
2126 establishments in the commonwealth, including but not limited to, how to mitigate the impact of
2127 gaming establishments on crimes committed in the commonwealth. The subcommittee shall also
2128 study the impact of gaming establishments on all aspects of public safety in the commonwealth.

2129 (f) Each region, as defined in section 17, may establish a local community mitigation
2130 advisory committee, which shall include not fewer than 6 members: 1 of whom shall be appointed
2131 by each of the host and surrounding communities; 1 of whom shall be appointed by each regional
2132 planning agency to which at least 1 of the host or surrounding communities belongs; and 4 of
2133 whom shall be appointed by the board, of whom at least 1 shall represent a chamber of
2134 commerce in the region, 1 shall represent a regional economic development organization in the
2135 region, and 2 shall represent human service providers in the region. Each local committee shall
2136 annually elect a chair and such other officers as it deems necessary to carry out its duties.

2137 Each local committee may provide information and develop recommendations for the
2138 subcommittee on community mitigation on any issues related to the gaming establishment located
2139 in its region including, but not limited to: issues of community mitigation; how funds may be
2140 expended from the community mitigation fund; and the impact of the gaming establishments on
2141 the host and surrounding communities. Additionally, each local committee may present
2142 information to the commission or board, consistent with the rules of the commission or board, on
2143 any issues related to the gaming establishment located in its region.

2144 **Section 47.** As used in sections 48 to 56, inclusive, the following words shall have the
2145 following meanings, unless the context clearly requires otherwise:—

2146 “Compensation”, any money, thing of value or economic benefit conferred on or received
2147 by any employee of the gaming industry in return for services rendered or to be rendered by the
2148 employee or another.

2149 “Gaming officials”, a person who is employed, temporarily or permanently, by an entity
2150 licensed under this chapter, including, but not limited to, key gaming employees and other
2151 employees, agents, consultants and advisors.

2152 “Gaming entity”, a person or business that is licensed under this chapter.

2153 “Official act”, a decision, action or inaction within the official capacity of the gaming
2154 official as a gaming official.

2155 “Official responsibility”, the direct administrative or operating authority, whether
2156 intermediate or final, either exercisable alone or with others, and whether personal or through
2157 subordinates, to approve, disapprove or otherwise direct gaming-related action.

2158 “Participate”, engaging in gaming-related action personally and substantially as an
2159 official, through approval, disapproval, decision, recommendation, the rendering of advice,
2160 investigation or otherwise.

2161 **Section 48.** No person shall directly or indirectly, corruptly give, offer or promise
2162 anything of value to a gaming official, or offer or promise any such official to give anything of
2163 value to any other person or entity, with intent to:

2164 (1) influence an official act or an act within the official responsibility of the gaming
2165 official; or

2166 (2) influence the gaming official to commit or aid in committing, or collude in, or allow,
2167 any fraud or make opportunity for the commission of a fraud on the commonwealth, a state,
2168 county or municipal agency or any person or business entity doing business with a gaming entity;
2169 or

2170 (3) induce a gaming official to do or omit to do any act in violation of the official’s
2171 lawful duty.

2172 A violation of this section shall be punished by a fine of not more than \$10,000, or by
2173 imprisonment in the state prison for not more than 10 years, or in a jail or house of correction for
2174 not more than 2 1/2 years, or both.

2175 **Section 49.** (a) No person shall, other than as provided by law for the proper discharge of
2176 official duty, directly or indirectly, give, offer or promise anything of substantial value to a
2177 gaming official:

2178 (i) for or because of an official act performed or to be performed by such
2179 a gaming official; or

2180 (ii) to influence, or attempt to influence, an official action of a gaming
2181 entity.

2182 A violation of this section shall be punished by a fine of not more than \$10,000, or by
2183 imprisonment in the state prison for not more than 10 years, or in a jail or house of correction for
2184 not more than 2 1/2 years, or both.

2185 (b) No present or former gaming official shall, other than as provided by law for the
2186 proper discharge of official duty, directly or indirectly, ask, demand, exact, solicit, seek, accept,
2187 receive or agree to receive anything of substantial value:

2188 (i) for the gaming official, for or because of any official act or act within the
2189 gaming official's official responsibility performed or to be performed by the gaming official; or

2190 (ii) to influence, or attempt to influence, the gaming official in an official act
2191 taken.

2192 A violation of this section shall be punished by a fine of not more than \$10,000, or by
2193 imprisonment in the state prison for not more than 10 years, or in a jail or house of correction for
2194 not more than 2 1/2 years, or both.

2195 (c) Nothing in this section shall be construed to prohibit the awarding of gratuities in
2196 compliance with an official gratuity policy established by the gaming establishment, the board or
2197 the commission.

2198 **Section 50.** (a) Except as permitted by subsection (b), no board member shall participate
2199 as such a member in a particular matter in which to the member's knowledge, the member's
2200 immediate family or partner, a business organization in which the member is serving as officer,
2201 director, trustee, partner or employee or any person or organization with whom the member is
2202 negotiating or has any arrangement concerning prospective employment, has a financial interest.

2203 A violation of this section shall be punished by a fine of not more than \$25,000, or by
2204 imprisonment in the state prison for not more than 10 years, or in a jail or house of correction for
2205 not more than 2 1/2 years, or both.

2206 (b) A board member whose duties would otherwise require such member to participate in
2207 such a particular matter shall advise the commission of the nature and circumstances of the
2208 particular matter and shall make a full disclosure of such financial interest, and the commission
2209 shall thereupon either:

2210 (1) require that the member not participate in the particular matter; or

2211 (2) make a written determination that the interest is not so substantial as to be
2212 deemed likely to affect the integrity of the board, in which case it shall not be a violation for the
2213 member to participate in the particular matter. Copies of such written determination shall be
2214 forwarded to the member and filed with the commission. Such copy shall be retained by the
2215 commission for a period of 6 years and shall be a public record.

2216 **Section 51.** No commissioner or board member shall be eligible for a position under the
2217 supervision of the commission or board until the expiration of 30 days from the termination of the
2218 commissioner's or member's service as a commissioner or board member.

2219 **Section 52.** (a) In addition to other remedies provided by law, a violation of sections 48
2220 to 51, inclusive, which has substantially influenced the action taken by a gaming entity in a
2221 particular matter, shall be grounds for avoiding, rescinding or canceling the action on such terms
2222 as the interests of an innocent third person requires.

2223 (b) In addition to the remedies set forth in subsection (a), the commission, upon a finding
2224 pursuant to an adjudicatory proceeding that a person has acted to the person's economic
2225 advantage in violation of sections 48 to 51, inclusive, may issue an order: (1) requiring the
2226 violator to pay the board in the amount of the economic advantage or \$500, whichever is greater;
2227 and (2) requiring the violator to make restitution to an injured third party. If there has been no
2228 final criminal judgment of conviction or acquittal of the same violation, upon receipt of the
2229 written approval of the attorney general, the commission may order payment of additional
2230 damages in an amount not exceeding twice the amount of the economic advantage or \$500,
2231 whichever is greater.

2232 (c) The remedies authorized by this section shall be in addition to any civil penalty
2233 imposed by the commission.

2234 **Section 53.** The commission shall designate a gaming ombudsmen, who shall be
2235 available to advise gaming officials of the officials' responsibilities under this chapter. A gaming
2236 official shall be entitled to the opinion of the gaming ombudsmen upon any question arising
2237 under this chapter relating to the duties, responsibilities and interests of such official.

2238 **Section 54.** All disclosures and certifications required by this chapter shall be made in
2239 writing and, unless otherwise specifically provided in this chapter, shall be kept open by the
2240 commission to inspection by the public.

2241 **Section 55.** The board shall prepare, and update as necessary, summaries of sections 47
2242 to 54, inclusive, for gaming officials which the board shall publish on its official website. Every
2243 gaming official shall, within 30 days of becoming such an official, and on an annual basis
2244 thereafter, be furnished with a summary of said sections prepared by the board, sign a written
2245 acknowledgment that the gaming official has been provided with such a summary and undergo
2246 training explaining the requirements of this chapter. The board shall establish procedures for
2247 implementing this section and ensuring compliance.

2248 **Section 56.** No gaming establishment, or its agents or employees shall employ, contract
2249 with, or use any shill or Barker to induce any person to enter a gaming establishment or play at
2250 any game or for any purpose.

2251 A violation of this section shall be punishable by a fine of \$5,000 or by imprisonment in
2252 the state prison for not more than 5 years, or in a jail or house of correction for not more than 2
2253 1/2 years, or both.

2254 **Section 57.** (a) No gaming official shall, except in the normal course of the official's
2255 duties, wager in the gaming establishment in which such official is employed.

2256 (b) No gaming official shall, except in the normal course of the official's duties, wager in
2257 an establishment which is owned or operated by the same licensee who owns or operates the
2258 gaming establishment for which the official is employed.

2259 **Section 58.** A gaming official, not including key gaming employees and employees
2260 holding major policy-making positions, who, in the judgment of the commission, is not directly

2261 involved with the conduct of gaming operations, shall wait at least 30 days following the date that
2262 the gaming official either leaves or is terminated from employment with a gaming establishment
2263 before the gaming official may gamble in the gaming establishment in which the gaming official
2264 was formerly employed or in any other gaming establishment which is owned or operated by the
2265 same licensee.

2266 **Section 59.** No key gaming employee or gaming control employee, or any other gaming
2267 official who serves in a supervisory position shall solicit or accept, any tip or gratuity from any
2268 player or patron in the gaming establishment where the employee is employed.

2269 **Section 60.** The board shall report monthly to the governor, the attorney general, the
2270 senate and house committees on ways and means and the chairs of the joint committee on revenue
2271 the total gaming revenues, prize disbursements and other expenses for the preceding month, and
2272 shall make an annual report to the same recipients which shall include a full and complete
2273 statement of gaming revenues, prize disbursements and other expenses, including such
2274 recommendations as the board considers necessary or advisable. The board shall report
2275 immediately to the governor, the attorney general, the senate and house committees on ways and
2276 means and the chairs of the joint committee on revenue any matter which requires immediate
2277 changes in the laws of the commonwealth in order to prevent abuses or evasions of the laws, rules
2278 or regulations related to gaming or to rectify undesirable conditions in connection with the
2279 administration or operation of gaming in the commonwealth.

2280 **Section 61.** The commission shall annually submit a complete and detailed report of the
2281 commission's activities within 90 days after the end of the fiscal year to the clerk of the house of
2282 representatives, the clerk of the senate, the chairs of the joint committee on economic
2283 development and emerging technologies and the chairs of the house and senate committees on
2284 ways and means.

2285 **Section 62.** There is hereby established and placed upon the books of the board a Gaming
2286 Licensing Fund which shall consist of all licensing fees collected from licensees and any proceeds
2287 from the investment of such fees. The board shall be the trustee of the fund and shall not allow
2288 the fund to carry a negative balance.

2289 **Section 63.** (a) A licensee shall pay a daily tax of 25 per cent on gross gaming revenues;
2290 provided that, taxes imposed under this section shall be remitted to the board by a licensee the
2291 day following each day of wagering.

2292 (b) The board shall remit the revenues received to the commonwealth on a daily basis and
2293 shall be deposited into the Gaming Revenue fund, as established in section 64.

2294 **Section 64.** (a) There is hereby established and placed upon the books of the board a
2295 Gaming Revenue Fund which shall consist of all revenues collected from the tax on gross gaming
2296 revenue received from gaming licensees under section 63, and any proceeds from the investment
2297 of such revenues. The board shall be the trustee of the fund.

2298 (b) Any transfer under this section shall be made under a transfer schedule to be
2299 developed by the comptroller and the board for each item after consulting with the appropriate
2300 agency secretary, the secretary of administration and finance and the state treasurer. The
2301 schedule shall provide for transfers in increments considered appropriate to meet the cash flow
2302 needs of each fund and all transfers under the schedule shall be completed annually not later than
2303 June 30.

2304 (c) The board shall transfer 10 per cent of collected revenues to the Gaming Mitigation
2305 Trust Fund, created in section 65, and remit the remaining 90 per cent of collected revenues to the
2306 comptroller. The comptroller may make all necessary transfers among funds to ensure that
2307 monies in the fund are transferred as follows:-

2308 (i) one-third of the amount remitted to the General Fund, subject to appropriation,
2309 shall be used for debt reduction through a program of debt defeasance and accelerated debt
2310 payments; provided, that, this program shall be developed jointly by the state treasurer and the
2311 secretary of administration and finance and shall be implemented in compliance with state
2312 finance law; provided, further, that this program shall prioritize the reduction of risk in the
2313 commonwealth's debt portfolio; provided further, that the state secretary and state treasurer shall
2314 provide a written description of the program to the finance advisory board established in section
2315 97 of chapter 6 for the board's review and comment before the program is implemented and shall
2316 file a copy of that description with the house and senate committees on ways and means and the
2317 house and senate committees on bonding, capital expenditures and state assets when it is
2318 submitted to the finance advisory board;

2319 (ii) one-third of the amount remitted to the State Lottery and Gaming Fund,
2320 created in section 35 of chapter 10; provided that, the total transfer to the State Lottery and
2321 Gaming Fund shall not exceed \$150,000,000 in any fiscal year; and provided further that, any
2322 amount in excess of \$150,000,000 shall be transferred to the Local Aid Stabilization Fund,
2323 created in section 2BBBB of chapter 29;

2324 (iii) one third of the amount remitted to the Gaming Economic Development
2325 Fund, created in section 2CCCC of chapter 29.

2326 **Section 65.** (a) There is hereby established and set up on the books of the board a fund to
2327 be known as the Gaming Mitigation Trust Fund. The Gaming Mitigation Trust Fund shall consist
2328 of monies transferred under section 70 of this act, all monies transferred from the Gaming
2329 Revenue Fund and all other monies credited or transferred to the fund from any other fund or
2330 source, and proceeds from the investment of such funds. The board shall be the trustee of the
2331 fund.

2332 (b) The board shall administer the Gaming Mitigation Trust Fund and, shall expend
2333 monies in the fund to address the impacts of expanded gaming in the commonwealth as follows:

2334 (1) Thirty-five per cent of fund revenues in a fiscal year shall be expended for
2335 community mitigation including, but not limited to, the areas of education, transportation and
2336 public safety in impacted communities;

2337 (2) Thirty-five per cent of fund revenues in a fiscal year shall be expended for
2338 social mitigation including, but not limited to, addiction prevention and treatment services;

2339 (3) Twenty per cent of fund revenues in a fiscal year shall be expended for
2340 cultural mitigation including, but not limited to, not-for-profit or municipally-owned performing
2341 arts centers; and

2342 (4) Ten per cent of fund revenues in a fiscal year shall be expended for racetrack
2343 mitigation including, but not limited to, developing programs to improve the purses offered at live
2344 racing venues and the horse breeding industry in the commonwealth.

2345 **Section 66.** All political contributions or contributions in kind made by an applicant for a
2346 gaming license to any municipal employee, as defined in section 1 of chapter 268A, of the host
2347 community of the applicant's proposed gaming establishment shall be disclosed, by the applicant,
2348 to the board and the city or town clerk of the host community.

2349 **SECTION 14.** Section 62 of chapter 23K of the General Laws is hereby repealed.

2350 **SECTION 15.** Section 1 of chapter 29 of the General Laws, as appearing in the 2008
2351 Official Edition, is hereby amended by striking out the definition of "State authority," and
2352 inserting in place thereof the following definition:-

2353 “State authority” a body politic and corporate constituted as a public instrumentality of
2354 the commonwealth and established by an act of the General Court to serve an essential
2355 governmental function; provided, however that “state authority” shall not include: (1) a state
2356 agency; (2) a city or town; (3) a body controlled by a city or town; or (4) a separate body politic
2357 where the governing body is elected by the general public.

2358 **SECTION 16.** Chapter 29 of the General Laws is hereby amended by inserting after
2359 section 2AAAA the following 2 sections:

2360 **Section 2BBBB** There shall be established and set up on the books of the
2361 commonwealth a separate fund to be known as the Local Aid Stabilization Fund. The Local Aid
2362 Stabilization Fund shall consist of monies transferred from the Gaming Revenue Fund,
2363 established in section 64 of chapter 23K, to the fund, all other monies credited or transferred from
2364 any other fund or source and proceeds from the investment of such funds. Subject to
2365 appropriation, the fund shall be distributed to cities and towns as a supplement to other sources of
2366 local aid distributions, but shall not be subject to section 5C of chapter 29.

2367 **Section 2CCCC.** There shall be established and set up on the books of the
2368 commonwealth a separate fund to be known as the Gaming Economic Development Fund. The
2369 fund shall be credited with revenues transferred to it from the Gaming Revenue Fund, established
2370 in section 64 of chapter 23K. Amounts credited to the fund shall be expended, subject to
2371 appropriation, to support economic development and job growth in the commonwealth including,
2372 but not limited to: (1) workforce training, including transfers to the Workforce Competiveness
2373 Trust Fund; (2) tourism promotion; (3) summer jobs; (4) Massachusetts Marketing Partnership,
2374 (5) higher education scholarships; (6) regional economic development initiatives; (7) small
2375 business lending; (8) green jobs promotion; and (9) STEM pipeline initiatives.

2376 **SECTION 17.** Section 38 of said chapter 29, as appearing in the 2008 Official Edition, is
2377 hereby amended by striking out in lines 115 to 116, the words “State Lottery Fund, as established
2378 and defined in section thirty-five of chapter ten” and inserting in place thereof the following
2379 words:- State Lottery and Gaming Fund established in section 35 of chapter 10.

2380 **SECTION 18.** Said section 38 of said chapter 29, as so appearing, is hereby further
2381 amended by striking out, in lines 127 to 128, the words “the said State Lottery Fund” and
2382 inserting in place thereof the following words:- said State Lottery and Gaming Fund.

2383 **SECTION 19.** Section 1 of chapter 32 of the General Laws, as so appearing, is hereby
2384 amended by inserting after the word “connector”, in line 211, the following words:- , the
2385 Massachusetts gaming commission, the Massachusetts gaming control board.

2386 **SECTION 20.** Section 2 of chapter 32A of the General Laws, as so appearing, is hereby
2387 amended by inserting after the word “authority”, in line 12, the following words:- , the
2388 Massachusetts gaming commission, the Massachusetts gaming control board.

2389 **SECTION 21.** Section 94 of chapter 41 of the General Laws, as so appearing, is hereby
2390 amended by inserting after the word “and”, in line 7, the first time it appears, the following word:
2391 illegal.

2392 **SECTION 22.** Section 18D of chapter 58 of the General Laws is hereby repealed.

2393 **SECTION 23.** Section 18C of said chapter 58, as appearing in the 2008 Official Edition,
2394 is hereby amended by inserting after the word “Lottery”, in line 6, the following words:- and
2395 Gaming.

2396 **SECTION 24.** Section 5A of chapter 62 of the General Laws, as appearing in the 2008
2397 Official Edition, is hereby amended by inserting after the word “commonwealth”, in line 24, the

2398 following words:- ,including gaming winnings acquired at or through a gaming establishment
2399 under chapter 23K.

2400 **SECTION 25.** The seventh paragraph of section 2 of chapter 62B of the General Laws,
2401 as so appearing, is hereby amended by striking out the first 2 sentences and inserting in place
2402 thereof the following 2 sentences:-

2403 Every person, including the United States, the commonwealth or any other state, or any
2404 political subdivision or instrumentality of the foregoing, making any payment of lottery or
2405 gaming winnings, acquired at or through a gaming establishment under chapter 23K, which are
2406 subject to taxation under chapter 62 and which are subject to withholding under section 3402(q)
2407 of the Internal Revenue Code shall deduct and withhold from such payment an amount equal to 5
2408 per cent of such payment, except that such withholding for purposes of this chapter shall apply to
2409 payments of winnings of \$600 or greater notwithstanding any contrary provisions of the Internal
2410 Revenue Code; provided, however that the exception contained in subsection (q)(5) and (r) of the
2411 Internal Revenue Code shall not apply to winnings under this section. For purposes of this
2412 chapter and chapter 62C, such payment of winnings shall be treated as if it were wages paid by an
2413 employer to an employee.

2414 **SECTION 26.** Said chapter 62B is hereby further amended by striking out section 5, as
2415 so appearing, and inserting in place thereof the following section:-

2416 Section 5. Every employer required to deduct and withhold from an employee or payee a
2417 tax under section 2, or who would have been required under said section in the case of an
2418 employee to deduct and withhold a tax if the employee had not claimed any personal exemption
2419 or dependency exemptions, shall furnish to each such employee or payee in respect of the wages
2420 or other payments paid by such employer to such employee or payee during the calendar year, on
2421 or before January 31 of the succeeding year, or, if an employee's employment is terminated

2422 before the close of such calendar year, within 30 days from the day on which the last payment of
2423 wages is made, a written statement in duplicate showing the name of the employer, the name of
2424 the employee or payee and the employee or payee's social security account number, if any, the
2425 total amount of wages or other amounts subject to taxation under chapter 62 and the total amount
2426 deducted and withheld as tax. This statement may contain such other information as the
2427 commissioner may prescribe. The commissioner may grant reasonable extensions of time, not
2428 exceeding 60 days, for the furnishing of the statement.

2429 Every employer who fails to withhold or pay to the commissioner any sums required by
2430 this chapter to be withheld or paid shall be personally and individually liable for such sums to the
2431 commonwealth. The term "employer" as used in this section and in section 11, shall include any
2432 person or entity required to withhold tax from any payee and shall include an officer or employee
2433 of a corporation, or a member or employee of a partnership or limited liability company, who as
2434 such officer, employee or member is under a duty to withhold and pay over taxes under this
2435 section and section 2. Any sum withheld under section 2 shall be considered to be held in trust
2436 for the commonwealth.

2437 If an employer in violation of this chapter fails to withhold the tax under section 2, and
2438 thereafter the tax against which such tax may be credited, under section 9, is paid, the tax so
2439 required to be withheld shall not be collected from the employer; but this paragraph shall in no
2440 case relieve the employer from liability for any penalties or addition to the tax otherwise
2441 applicable in respect of such failure to withhold.

2442 **SECTION 27.** The first paragraph of section 8 of chapter 62C of the General Laws, as so
2443 appearing, is hereby amended by striking out the last sentence and inserting in place thereof the
2444 following sentence:- The same basis of reporting shall be utilized for income that is subject to

2445 taxation or withholding under chapter 62 or 62B but is not subject to taxation or withholding
2446 under the Code.

2447 **SECTION 28.** Subsection (f) of section 38 of chapter 63 of the General Laws, as so
2448 appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the
2449 following paragraph:-

2450 For the purposes of this subsection: (1) in the case of the licensing of intangible property,
2451 the income-producing activity shall be considered to be performed in the commonwealth to the
2452 extent that the intangible property is used in the commonwealth; (2) the corporation shall be
2453 considered to be taxable in the state of the purchaser if the tangible personal property is delivered
2454 or shipped to a purchaser in a foreign country; (3) sales of tangible personal property to the
2455 United States government or an agency or instrumentality of the United States for purposes of
2456 resale to a foreign government or an agency or instrumentality of a foreign government shall not
2457 be sales made in the commonwealth; (4) in the case of the sale, exchange or other disposition of a
2458 capital asset, as defined in paragraph (m) of section 1 of chapter 62, used in a taxpayer's trade or
2459 business, including a deemed sale or exchange of such asset, "sales" shall be measured by the
2460 gain from the transaction; (5) "security" shall mean an interest or instrument commonly treated as
2461 a security as well as other instruments which are customarily sold in the open market or on a
2462 recognized exchange including, but not limited to, transferable shares of a beneficial interest in a
2463 corporation or other entity, bonds, debentures, notes and other evidences of indebtedness,
2464 accounts receivable and notes receivable, cash and cash equivalents including foreign currencies
2465 and repurchase and futures contracts; (6) in the case of a sale or deemed sale of a business, the
2466 term "sales" shall not include receipts from the sale of the business "good will" or similar
2467 intangible value, including, without limitation, "going concern value" and "workforce in place";
2468 (7) to the extent authorized under the life sciences tax incentive program established by section 5
2469 of chapter 23I, a certified life sciences company may be deemed a research and development

corporation for purposes of exemptions under chapters 64H and 64I; and (8) in the case of a business deriving receipts from operating a gaming establishment or otherwise deriving receipts from conducting a wagering business or activity, income-producing activity shall be considered to be performed in the commonwealth to the extent that the location of wagering transactions or activity that generated the receipts is in the commonwealth.

SECTION 29. Section 2 of chapter 70 of the General Laws, as so appearing, is hereby amended by inserting after the word “Lottery”, in line 355, the following words:- and Gaming.

SECTION 29A. Section 2 of chapter 128 of the General Laws, as so appearing, is hereby amended by striking out, in line 99, the words “or dog”.

SECTION 30. Section 2 of chapter 128 of the General Laws, as so appearing, is hereby amended by striking out subsection (i).

SECTION 31. Section 1 of chapter 128A of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the words “state racing commission” and inserting in place thereof the following words:- Massachusetts gaming commission established in chapter 23K.

SECTION 32. Section 1 of chapter 128C of the General Laws, as so appearing, is hereby amended by striking out, in line 12, the words “state racing commission” and inserting in place thereof the following words:- gaming commission established in chapter 23K.

SECTION 33. Section 1 of chapter 137 of the General Laws, as so appearing, is hereby amended by inserting after the word “gaming”, in line 2, the following words:- , except for gaming conducted in gaming establishments under chapter 23K.

SECTION 34. Section 2 of said chapter 137, as so appearing, is hereby amended by inserting after the word “building”, in line 1, the following words:- , except for an owner or operator of a gaming establishment licensed under chapter 23K.

2515 regularly engaged in the issuing, selling or redeeming of traveler's checks, money orders or
2516 similar instruments; (8) broker or dealer in securities or commodities; (9) licensed transmitter of
2517 funds or other person or business regularly engaged in the transmission of funds to a foreign
2518 nation for others; (10) investment banker or investment company; (11) insurer; (12) dealer in
2519 precious metals, stones or jewels; (13) pawnbroker or scrap metal dealer; (14) telegraph or other
2520 communications company; (15) personal property or real estate broker; (16) dealer in vehicles
2521 including, but not limited to, automobiles, aircraft and vessels; (17) operator of a betting or
2522 gaming establishment; (18) travel agent; (19) thrift institution; (20) operator of a credit card
2523 system; or (21) loan or finance company.

2524 "Monetary instrument", the currency and coin of the United States or any foreign
2525 country; any bank check, money order, stock, investment security, or negotiable instrument in
2526 bearer form or otherwise in such form that title passes upon delivery; gold, silver or platinum
2527 bullion or coins; diamonds, emeralds, rubies, or sapphires; any negotiable instrument including:
2528 bank checks, cashier's checks, traveler's checks, or monetary orders made payable to the order of
2529 a named party that have not been endorsed or which bear restrictive endorsements; poker chips,
2530 vouchers or other tokens exchangeable for cash by gaming entities; and credit cards, debit cards,
2531 gift cards, gift certificates or scrips.

2532 "Transaction", a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition,
2533 and with respect to a financial institution including, but not limited to, a deposit, withdrawal,
2534 bailment, transfer between accounts, exchange of currency, loan, extension of credit, purchase or
2535 sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safe deposit
2536 box, or any other payment, transfer, or delivery by, through, or to a financial institution, by
2537 whatever means effected.

2538 Section 2. Whoever knowingly:

2539 (1) transports or possesses a monetary instrument or other property that was derived from
2540 criminal activity with the intent to promote, carry on or facilitate criminal activity;

2541 (2) engages in a transaction involving a monetary instrument or other property known to
2542 be derived from criminal activity:

2543 (i) with the intent to promote, carry on or facilitate criminal activity; or

2544 (ii) knowing that the transaction is designed in whole or in part either to: (A)
2545 conceal or disguise the nature, location, source, ownership or control of the property derived from
2546 criminal activity; or (B) avoid a transaction reporting requirement of this chapter, of the United
2547 States, or of any other state; or

2548 (3) directs, organizes, finances, plans, manages, supervises or controls the transportation
2549 of, or transactions in, monetary instruments or other property known to be derived from criminal
2550 activity or which a reasonable person would believe to be derived from criminal activity;

2551 shall be guilty of the crime of money laundering and shall be punished by imprisonment in the
2552 state prison for not more than 6 years or by a fine of not more than \$250,000 or twice the value of
2553 the property transacted, whichever is greater, or by both such imprisonment and fine; and for any
2554 subsequent offense shall be punished by imprisonment in the state prison for not less than 2 years,
2555 but not more than 8 years or by a fine of not more than \$500,000 or 3 times the value of the
2556 property transacted, whichever is greater, or by both such imprisonment and fine.

2557 Section 3. (a) A financial institution shall file with the attorney general a copy of any and
2558 all reports required by the Currency and Foreign Transactions Act, set forth in 31 U.S.C., sections
2559 5311 through 5315, 31 C.F.R. 103.

2560 (b) A financial institution, or any officer, employee, or agent of a financial institution that
2561 maintains and files a record or report under this section shall not be liable to its customer, to a

2562 state or local agency, or to any person for any loss or damage caused in whole or in part by the
2563 making, filing or governmental use of the record or report, or any information contained in the
2564 record or report. Nothing in this chapter shall be construed to give rise to a private cause of action
2565 for relief or damages. This subsection shall not preclude a financial institution, in its discretion,
2566 from instituting contact with, and then communicating with and disclosing customer financial
2567 records to appropriate federal, state or local law enforcement agencies if the financial institution
2568 has reason to suspect that the records or information demonstrate that the customer has violated
2569 this chapter.

2570 (c) Any report, record or information obtained by the attorney general under this section
2571 shall not be a public record under clause Twenty-sixth of section 7 of chapter 4 or section 10 of
2572 chapter 66 and shall not be subject to disclosure, except to other state and federal law
2573 enforcement agencies.

2574 (d) Any violation of this section, which is not a violation of section 2, shall be punished
2575 by a fine of \$100 for each report not filed.

2576 (e) The timely filing of complete and accurate reports required under subsection (a) with
2577 the appropriate federal agency shall constitute compliance with the requirements of subsection
2578 (a).

2579 Section 4. All monetary instruments or other property, real, intellectual or personal,
2580 obtained directly as a result of a violation of section 2 of this chapter, shall be subject to forfeiture
2581 to the commonwealth. Forfeiture proceedings shall be conducted as provided in subsections (b)
2582 to (j), inclusive of section 47 of chapter 94C. For purposes of subsection (d) of said section 47 of
2583 said chapter 94C, the investigation and enforcement bureau of the gaming control board shall be
2584 considered a police department, entitled to a police department's distribution of forfeiture
2585 proceedings.

2586 **SECTION 39.** Subsection (c) of section 22 of chapter 270 of the General Laws, as
2587 appearing in the 2008 Official Edition, is hereby amended by adding the following:- (10) A
2588 designated area within a gaming establishment licensed under chapter 23K; provided that if the
2589 area is within the gaming area, as defined in said chapter 23K, the area shall be no larger than 25
2590 per cent of the gaming area; provided, further, that the area shall be appropriately marked with
2591 signs designating the area as a smoking area; and provided, further, that the area shall have
2592 appropriate ventilation so as to minimize the effect of the smoke on the non-designated areas
2593 within the gaming establishment.

2594 **SECTION 40.** Section 1 of chapter 271 of the General Laws, as so appearing, is hereby
2595 amended by inserting after the word “gaming”, in lines 3 and 4, the following words:- , except as
2596 permitted under chapter 23K.

2597 **SECTION 41.** Section 2 of said chapter 271, as so appearing, is hereby amended by
2598 inserting after the words “playing”, in line 4, the following words:- , except as permitted under
2599 chapter 23K.

2600 **SECTION 42.** Section 3 of said chapter 271, as so appearing, is hereby amended by
2601 inserting after the words “gaming”, in line 3, the following words:- , except as permitted under
2602 chapter 23K.

2603 **SECTION 43.** Section 5 of said chapter 271, as so appearing, is hereby amended by
2604 inserting after the words “thing,”, in line 7, the following words:- except as permitted under
2605 chapter 23K.

2606 **SECTION 44.** The second paragraph of section 5A of said chapter 271, as so appearing,
2607 is hereby amended by adding the following sentence:- This section shall not apply to persons who
2608 manufacture, transport, sell, offer for sale, store, display, repair, recondition, possess or use any

2609 gambling device or parts for use in such a device for licensed gaming conducted under chapter
2610 23K.

2611 **SECTION 45.** Section 6 of said chapter 271, as so appearing, is hereby amended by
2612 striking out, in lines 3 and 4, the words “gambling or unlawful game” and inserting in place
2613 thereof the words:- illegal gaming.

2614 **SECTION 46.** Section 7 of said chapter 271, as so appearing, is hereby amended by
2615 inserting after the word “device”, in line 7, the first time it appears, the following words:- that is
2616 not taking place in a gaming establishment licensed under chapter 23K.

2617 **SECTION 47.** Said chapter 271 is hereby further amended by striking out section 8, as
2618 so appearing, and inserting in place thereof the following section:

2619 Section 8. Whoever owns, occupies, or is in control of a house, shop or building and
2620 knowingly permits the establishing, managing or drawing of such lottery, or such disposal or
2621 attempt to dispose of property, or the sale of a lottery ticket or share of a ticket, or any other
2622 writing, certificate, bill, token or other device purporting or intended to entitle the holder, bearer
2623 or any other person to a prize or to a share of or interest in a prize to be drawn in a lottery, or in
2624 such disposal or property and whoever knowingly suffers money or other property to be raffled
2625 for or won by throwing or using dice or by any other game of chance that is not being conducted
2626 in a licensed gaming establishment under chapter 23K, shall be punished by a fine of not more
2627 than \$2000 or by imprisonment in a jail or house of correction for not more than 1 year.

2628 **SECTION 48.** Section 14 of said chapter 271, as so appearing, is hereby further
2629 amended by inserting after the word “ by”, in line 3, the first time it appears, the following
2630 words:- illegal gaming, including games of.

2631 **SECTION 48A.** Section 16A of said chapter 271, as so appearing, is hereby amended by
2632 inserting after the word “wagerers”, in line 14, the following words: - or to persons who organize,
2633 supervise, manage, or finance persons for the purpose of gaming conducted under chapter 23K.

2634 **SECTION 49.** Section 17 of said chapter 271, as so appearing, is hereby amended by
2635 adding the following sentence:- This section shall not apply to persons who organize, supervise,
2636 manage or finance persons for the purpose of licensed gaming conducted under chapter 23K.

2637 **SECTION 50.** Section 19 of said chapter 271, as so appearing, is hereby amended by
2638 adding the following words:- ; provided, however, that this section shall not apply to advertising
2639 of licensed gaming conducted under chapter 23K.

2640 **SECTION 51.** Section 20 of said chapter 271, as so appearing, is hereby amended by
2641 adding the following sentence:- Nothing in this section shall prohibit a gaming establishment
2642 licensed under chapter 23K from posting or exposing materials relevant to its gaming operations.

2643 **SECTION 52.** Section 22 of said chapter 271, as so appearing, is hereby amended by
2644 adding the following words:- or any receipt, carriage or delivery by a gaming establishment
2645 licensed under chapter 23K.

2646 **SECTION 53.** Section 23 of said chapter 271, as so appearing, is hereby amended by
2647 striking out the last sentence and inserting in place thereof the following sentence:- Chapter 276
2648 relative to the disposal of gaming articles seized upon search warrants shall apply to all articles
2649 and property seized under this section; provided, however, that such disposal shall not apply to
2650 licensed gaming conducted under chapter 23K.

2651 **SECTION 54.** Section 28 of said chapter 271, as so appearing, is hereby amended by
2652 inserting after the word “of”, in line 3, the third time it appears, the following word:- illegal.

2677 fighting or boxing matches; counterfeiting; perjury; subornation of perjury; obstruction of justice;
2678 money laundering; witness intimidation; bribery; electronic eavesdropping; prostitution; receiving
2679 stolen property; larceny over \$250; larceny by false pretenses or embezzlement; forgery;
2680 procurement fraud; false claims; tax evasion; filing false tax returns; or any conduct defined as a
2681 racketeering activity under Title 18, U.S.C. s. 1961(1)(A)(B) and (D).

2682 “Enterprise”, an entity including any individual, sole proprietorship, partnership,
2683 corporation, association, trust or other legal entity and any unchartered union or group of persons
2684 associated in fact although not a legally recognized entity.

2685 “Gaming establishment”, an establishment licensed under chapter 23K.

2686 “Pattern of criminal enterprise activity”, engaging in at least 3 incidents of criminal
2687 enterprise activity that have the same or similar pattern, intents, results, accomplices, victims or
2688 methods of commission, or are otherwise interrelated by distinguishing characteristics and are not
2689 isolated incidents; provided, however, that at least 1 of the incidents occurred after the effective
2690 date of this chapter, and the last incident occurred within 5 years of another incident of criminal
2691 enterprise activity.

2692 “Unlawful debt”, a debt (i) which was incurred or contracted in an illegal gambling
2693 activity or business or (ii) which is unenforceable under state or federal law in whole or part as to
2694 principal or interest because of the law relating to usury.

2695 Section 2. Whoever knowingly: (1) through a pattern of criminal enterprise activity or
2696 through the collection of an unlawful debt acquires or maintains, directly or indirectly, an interest
2697 in or control of an enterprise which is engaged in, or the activities of which affect, licensed
2698 gaming under chapter 23K or ancillary industries which do business with a gaming establishment;
2699 (2) having received proceeds derived, directly or indirectly, from a pattern of criminal enterprise

2700 activity or through the collection of an unlawful debt, uses or invests, directly or indirectly, part
2701 of the proceeds including proceeds derived from the investment, in the acquisition of an interest
2702 in real property to be used in connection with licensed gaming, or in the establishment or
2703 operation of, an enterprise which is engaged in, or the activities of which affect, licensed gaming
2704 operations or ancillary industries which do business with a gaming establishment; (3) is
2705 employed by or associated with an enterprise to conduct or participate, directly or indirectly, in
2706 the conduct of the enterprise's affairs or activities which affect licensed gaming operations or
2707 ancillary industries which do business with a gaming establishment by engaging in a pattern of
2708 criminal enterprise activity or through the collection of an unlawful debt; or (4) conspires or
2709 attempts to violate subsections (1), (2), or (3) of this section; shall be guilty of enterprise crime
2710 and shall be punished by imprisonment in the state prison for not more than 15 years or by a fine
2711 of not more than \$25,000, or by both such imprisonment and fine.

2712 Nothing in this chapter shall prohibit the purchase of securities on the open market for
2713 purposes of investment made without the intention of controlling or participating in the control of
2714 the issuer, or of assisting another to do so, if the securities of the issuer held by the (i) purchaser;
2715 (ii) members of the purchaser's immediate family; and (iii) the purchaser's accomplices in any
2716 pattern of criminal activity or the collection of an unlawful debt after such purchase do not
2717 amount, in the aggregate, to 1 per cent of the outstanding securities of any 1 class and do not
2718 confer, either in law or in fact, the power to elect 1 or more directors of the issuer.

2719 Section 3. All monetary proceeds or other property, real, intellectual or personal, obtained
2720 directly as a result of a violation of this chapter, shall be subject to seizure and forfeiture to the
2721 commonwealth. Forfeiture proceedings shall be conducted as provided in subsections (b) to (j),
2722 inclusive of section 47 of chapter 94C. For purposes of subsection (d) of said section 47 of said
2723 chapter 94C, the investigation and enforcement bureau of the gaming control board shall be

2724 considered a police department, entitled to a police department's distribution of forfeiture
2725 proceedings.

2726 **SECTION 57.** Section 39 of chapter 272 of the General Laws, as appearing in the 2008
2727 Official Edition, is hereby amended by inserting after the word "in", in line 7, the following
2728 word:- illegal.

2729 **SECTION 58.** Section 99 of said chapter 272, as so appearing, is hereby amended by
2730 striking out, in lines 68 to 69, the words:- section seventeen of chapter two hundred and seventy
2731 one of.

2732 **SECTION 59.** Said section 99 of said chapter 272, as so appearing, is hereby further
2733 amended by inserting after the word "perjury", in line 72, the following words:- , enterprise
2734 crime, money laundering.

2735 **SECTION 60.** Section 13 of chapter 494 of the acts of 1978, as most recently amended
2736 by section 2 of chapter 114 of the acts of 1991, is hereby amended by striking out clause (c).

2737 **SECTION 61.** Clause (d) of said section 13 of said chapter 494, as appearing in said
2738 section 2 of said chapter 114, is hereby amended by striking out, in line 21, the words "(b) or (c)"
2739 and inserting in place thereof the following words:- and (b).

2740 **SECTION 62.** Said section 13 of said chapter 494, as most recently amended by said
2741 section 2 of said chapter 114, is hereby further amended by striking out subsection (f).

2742 **SECTION 63.** Under section 2 of chapter 1194, 64 Stat. 1134, 15 U.S.C. 1171-1177,
2743 approved January 2, 1951, the commonwealth, acting by and through duly elected and qualified
2744 members of the general court, does declare and proclaim that the commonwealth shall be exempt
2745 from the provisions of chapter 1194, 64 Stat. 1134, 15 U.S.C. 1171 to 1178 for any gambling

2746 device authorized for use and transport under chapter 23K of the General Laws and any
2747 regulations promulgated under that chapter.

2748 **SECTION 64.** All shipments of gambling devices into the commonwealth, including slot
2749 machines, the registering, recording and labeling of which has been duly had by the manufacturer
2750 of dealer of such gambling device in accordance with sections 3 and 4 of an Act of Congress of
2751 the United States entitled “An act to prohibit transportation of gambling devices in interstate and
2752 foreign commerce,” approved January 2, 1951, being chapter 1194, 64 Stat. 1134, and also
2753 designated as 15 USC §§ 1171-1177, shall be considered legal shipments of gambling devices
2754 into this commonwealth.

2755 **SECTION 65.** In making initial appointments to the Massachusetts gaming commission
2756 established in section 2 of chapter 23K of the General Laws, the governor shall appoint 1
2757 commissioner to serve for a term of 5 years, 1 commissioner to serve for a term of 6 years, and 1
2758 commissioner to serve for a term of 7 years. The attorney general and treasurer shall each
2759 appoint 1 commissioner to serve for a term of 5 years.

2760 **SECTION 66.** In making initial appointments to the Massachusetts gaming control board
2761 established in section 3 of chapter 23K of the General Laws, the governor shall appoint 1 member
2762 to serve for a term of 5 years, 1 member to serve for a term of 6 years and 1 member to serve for
2763 a term of 7 years.

2764 **SECTION 67.** The chair of the Massachusetts gaming control board shall consider
2765 current employees of the state racing commission as eligible for employment with the board and
2766 shall, subject to all other requirements and conditions of employment under chapter 23K of the
2767 General Laws, give preference to such individuals when making employment decisions.

2768 **SECTION 68.** A gaming licensee awarded a gaming license for a specific region under
2769 section 16 of chapter 23K of the General Laws shall show preference in hiring to any qualified

persons permanently employed as of June 1, 2010 at a facility authorized to conduct simulcasting under chapter 128C of the General Laws that is in operation on June 1, 2010 within the region for which the gaming license was granted if the facility authorized to conduct simulcasting terminates operation within 1 year of the commission awarding the gaming license, subject to all other requirements and conditions of employment under said chapter 23K; provided that said facility authorized to conduct simulcasting shall provide employment data on the number, names and addresses of employees in permanent employment with said facility as of June 1, 2010 to the board to assist the gaming licensee in meeting this obligation.

SECTION 69. (a) Notwithstanding any general or special law, rule or regulation to the contrary, a contract negotiated by the governor under this section may waive the requirement that a gaming license granted under section 17 of chapter 23K of the General Laws be renewed.

(b) Notwithstanding any general or special law, rule or regulation to the contrary, the governor may enter into a gaming contract with a federally recognized Native American tribe in the commonwealth.

(c) If the governor enters into a gaming contract, it shall include, but not be limited to, the following terms:

(i) the tribe shall be subject to all laws, statutes, and bylaws of the commonwealth, the host community, and any other properly constituted legal body, including chapter 23K of the General Laws; provided however that a payment in lieu of taxes of equal or greater value may be substituted for any tax or fee required by the commonwealth; and

(ii) if the tribe receives or has received a license to operate a gaming establishment under said chapter 23K, the governor shall support the tribe's application to obtain lands in trust on the site of the gaming establishment.

2793 (d) The contract may include, but shall not be limited to, the following terms:

2794 (i) a grant of permanent exclusivity in the applicable region if the tribe
2795 receives a license to operate a gaming establishment under said chapter 23K; and

2796 (ii) a waiver of the requirement that a gaming establishment license granted
2797 under section 17 of chapter 23K be renewed.

2798 (e) If the contract includes either term in subsection (d), the contract shall also include an
2799 agreement that permanent regional exclusivity or a waiver of the license renewal requirement
2800 constitutes significant value.

2801 **SECTION 70.** (a) Upon receipt by the board of licensing fees from licensees, the board
2802 shall transfer monies from the Gaming Licensing Fund, established in section 62 of chapter 23K
2803 of the General Laws, as provided in this subsection. Between the effective date of this section and
2804 December 31, 2015, funds shall be transferred as follows:-

2805 (1) \$15,000,000 in the aggregate shall be transferred to the Gaming Mitigation Trust
2806 Fund established by section 65 of chapter 23K of the General Laws;

2807 (2) \$85,000,000 in the aggregate shall be remitted to the comptroller and the
2808 comptroller shall deposit into the Local Aid Stabilization Fund, established by section 2BBBB of
2809 chapter 29 of the General Laws;

2810 (3) \$20,000,000 to the Massachusetts gaming control board to be used for start-up
2811 and operational costs; and

2812 (4) the remaining balance of the fund as of December 31, 2015 shall be remitted to
2813 the comptroller and the comptroller shall deposit that remaining balance into the Stabilization
2814 Fund established by section 2H of chapter 29 of the General Laws.

2815 (b) Upon receipt by the Massachusetts gaming control board of license fees from
2816 licensees, interim transfers and payments shall be made on a pro rata basis from the Gaming
2817 Licensing Fund as provided in clauses (1) and (2) of subsection (a); provided, however, that no
2818 transfer or payment under said clauses (1) and (2) shall occur until the fund reimburses
2819 \$20,000,000 to the Stabilization Fund as required by subsection (b) of section 71 of this act.

2820 **SECTION 71.** (a) Within 30 days of the effective date of this act, the comptroller shall
2821 transfer \$20,000,000, as a loan with no interest, from the Stabilization Fund established by
2822 section 2H of chapter 29 of the General Laws, to the Massachusetts gaming control board for the
2823 start-up and operational costs of implementing chapter 23K of the General Laws.

2824 (b) Upon receipt by the Massachusetts gaming control board of sufficient license fees
2825 from licensees under said chapter 23K, the board shall remit \$20,000,000 to the comptroller from
2826 the Gaming Licensing Fund established in section 62 of said chapter 23K to repay the
2827 Stabilization Fund established by said section 2H of said chapter 29.

2828 **SECTION 72.** Not more than \$42,500,000 shall be expended from the Local Aid
2829 Stabilization Fund, created in section 2BBBB of chapter 29 of the General Laws, in fiscal year
2830 2012.

2831 **SECTION 73.** Section 69 of this act is hereby repealed.

2832 **SECTION 74.** Section 14 shall take effect on December 31, 2015.

2833 **SECTION 75.** Section 73 of this act shall take effect on June 30, 2011.